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VENTURA
SUPERIOR COURT
FILED

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MICHAEL D. PLANET
Executive Officer and Clerk

BY: _____, Deputy

DEBRA RAMOS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

THEODORE P. KRACKE, an individual	)	Case No.: 56-2016-00490376-CU-WM-VTA
	)	Assigned to Hon. Mark S. Borrell
Petitioner/Plaintiff,)	
	)	FIRST AMENDED WRIT OF MANDATE
v.	)	AND COMPLAINT FOR 1) CIVIL
	)	PENALTIES FOR VIOLATION OF THE
CITY OF SANTA BARBARA, a municipality	)	CALIFORNIA COASTAL ACT; 2)
	)	INJUNCTIVE RELIEF UNDER THE
Respondent/Defendant.	)	COASTAL ACT; 3) DECLARATORY
	)	RELIEF UNDER THE COASTAL ACT
)	
	)	[Code of Civ. Proc. § 1085]

1. This petition is made pursuant to Code of Civil Procedure § 1085. This honorable Court has jurisdiction to hear and decide this petition by virtue of said statutes.

2. Petitioner and Plaintiff THEODORE P. KRACKE ("KRACKE") is an individual who, at all times relevant hereto, was a resident of the City of Santa Barbara, State of California.

3. Respondent and Defendant CITY OF SANTA BARBARA ("CITY") is a California municipal corporation incorporated pursuant to applicable law on April 9, 1850.

4. At all times relevant hereto since October of 2012, KRACKE has been the owner of the real property commonly known as 16 East Arrellaga Street in Santa Barbara, California 93101, which he operates as a short term vacation rental (as defined below). KRACKE and his family have a separate primary residence in the City of Santa Barbara

1 where they reside on a full-time basis.

2 5. At all times relevant hereto since 2007, KRACKE has been the proprietor of
3 Paradise Retreats World Class Vacation Rentals (“Paradise Retreats”), a local business
4 engaged in operating, managing and servicing vacation rentals in and around the CITY.
5 Paradise Retreats currently operates twenty-five (25) rental properties within the CITY’s
6 limits, eight (8) of which are located within the CITY’s Coastal Zone, as defined under the
7 California Coastal Act. Paradise Retreats was duly issued a business license by the CITY
8 and pays the associated annual fee for each property it manages. Paradise Retreats has
9 regularly paid transient occupancy taxes to the CITY from all revenue derived from the
10 rental properties it manages and operates.

11 **SHORT-TERM VACATION RENTALS**

12 6. The properties managed and operated by Paradise Retreats within the CITY’s
13 Coastal Zone provide lower cost accommodations, unique recreational opportunities, and
14 increased coastal access opportunities for visiting families or small groups with a range of
15 incomes who intend to stay over short periods of time, generally not exceeding thirty (30)
16 days. Short term vacation rentals (“STVRs”) are prevalent in many California beach
17 communities, including Santa Barbara, where there is a high demand for a limited supply of
18 affordable accommodations situated near the coastline that provide access to the coast and
19 nearby visitor-serving commercial enterprises and recreational opportunities. In stark
20 contrast with hotels and motels in the CITY’s Coastal Zone, STVRs customarily serve groups
21 of six or more guests, and offer free amenities such as wireless internet, bicycles to
22 promote alternative forms of transportation, full kitchen (refrigerator, stove, microwave,
23 cooking utensils, toaster, coffee maker and dishwasher), barbecue, washer and dryer, spa,
24 fire pits, parking, extra bedding for sofas, futons, roll away beds, baby and small child
25 furnishings and various recreational opportunities. STVRs offer families and small groups
26 a high degree of flexibility, convenience, and affordability which is notably absent from
27 traditional hotels and motels within the Coastal Zone. But for the existence of STVRs
28 within the CITY’s Coastal Zone, the segment of the public who utilize STVRs would be

1 unable to access and enjoy the CITY's Coastal Zone with ease. Such a result would be
2 contrary to the goals of the Coastal Act (discussed below). The overwhelming majority of
3 guests who frequent KRACKE's STVRs within the CITY's Coastal Zone do not reside within
4 the County of Santa Barbara and, therefore, do not enjoy convenient access to the CITY's
5 unique Coastal Zone. Specifically, since January 1, 2015 through November 3, 2016,
6 approximately ninety three percent (93%) of the guests who stay at KRACKE's properties
7 located within the CITY's Coastal Zone reside outside of Santa Barbara County. These
8 percentages are derived from 577 total guest reservations, 535 of which the guests reside
9 outside of the County of Santa Barbara, and 52 of which the guests reside within the County
10 of Santa Barbara.

11 7. STVRs serve as an alternate form of visitor-serving accommodations within
12 the Coastal Zone, that provide a lower-cost alternative to renting hotel or motel rooms for
13 families and small groups from diverse demographic sectors and range of incomes to
14 enjoy coastal access. According to a study prepared by the California Economic Forecast
15 entitled, "The Average Daily Rate for Short Term Rentals in Santa Barbara: A comparison
16 with Conventional Hotels and Motels," dated March 25, 2017 ("California Economic
17 Forecast Study"), a true and correct copy of which is attached hereto as **Exhibit A**, "...the
18 average per bedroom per night rates of STRs is clearly less in all seasons then the rate per
19 hotel room in Santa Barbara, either in-town or along the beach or within the coastal zone.
20 Further savings occur because rentals include kitchens; families can cook their own food
21 which is less expensive than food away from home. Furthermore, laundry machines
22 enable additional savings, in both time and money." (California Economic Forecast Study,
23 p. 2). In addition, the California Economic Forecast Study found that, on a per room per
24 night basis, nightly rates for STVRs located in Santa Barbara's Coastal Zone are 38% less
25 than hotels/motels located in Santa Barbara's Coastal Zone. It concludes, "On a per room
26 per night basis, short term rentals are significantly less than conventional hotels and
27 motels in Santa Barbara and the Coastal Zone of Santa Barbara...On a per room basis for
28 families or traveling groups, short term rentals provide a comparatively more affordable

alternative to conventional lodging facilities in Santa Barbara including the Coastal Zone.” (Id. at p. 19.) The findings of the California Economic Forecast Study are bolstered by the report from the University of California at Los Angeles entitled, “Access for All, What the Coast Means to Californians, and How Often They Visit”, dated November 2016 (a true and correct copy of the “UCLA Access for All Study” is attached hereto as **Exhibit B**). According to the UCLA Access for All Study, (i) Californians have an affinity for the coast, but issues of access remain a problem, particularly for low-income communities and communities of color around the state; and, (ii) 75% of the surveyed respondents cite limited options for affordable overnight accommodations, which was rated a big problem at a higher rate by Latino voters and families with children. (UCLA Access for All Study, p. 3.) The UCLA Access for All Study concludes that protecting and increasing the supply of lower-cost overnight accommodations on the coast is critical: “Solving this barrier is key to providing access to the coast for many Californians.” (Id. at, pp. 7-8.)

8. In Santa Barbara, the average nightly rate for the STVRs managed by KRACKE’s business is appreciably less than the average nightly rate for a hotel room, particularly for groups or families of five or more. Accordingly, STVRs are an alternative form of lower cost visitor-serving living accommodations that offer flexible, family-oriented, lower-cost access to unique local Santa Barbara coastal resources, including but not limited to, Butterfly Beach, Andre Clark Bird Refuge, Santa Barbara Zoo, Cabrillo Park and Arts Center, Dwight Murphy, East Beach, Funk Zone, Stearns Wharf, Sea Center Museum, MOXI Museum, Santa Barbara Surf Museum, La Entrada, Amtrak Station, West Beach, Santa Barbara Harbor, Santa Barbara Breakwater, Santa Barbara Maritime Museum, Pershing Park, Ledbetter Beach, Shoreline Park, La Mesa Park, Douglas Family Preserve Open Space, Arroyo Burro Beach, Elings Park, and Veronica Meadows Open Space Park, along with access to nearby restaurants, shops, bars, services, entertainment venues, educational institutions, historical points-of-interest, public transportation, bicycle paths, recreational facilities, and beach-related leisure opportunities. Additionally, because STVRs are located within residential areas, they provide greater variation in areas

1 typically not zoned for hotels or motels, such as easier and more convenient access to the
2 coastal resources for families with small children, seniors, and people with disabilities.
3 Further, the residential setting of many STVRs offer visitors a unique glimpse into the
4 daily life and culture of the people of Santa Barbara and their neighborhoods that would
5 otherwise not be conveyed if visitors were restricted to hotels or motels within a
6 commercially zoned area.

7 9. Some residents of Santa Barbara have complained to the CITY that STVRs
8 negatively impact neighborhood character and contribute to noise issues and on-street
9 parking issues. Opponents of STVRs also contend that the property owners' use of their
10 home as a short term rental contributes to an increased market value in rents by reducing
11 the amount of housing stock available to longer-term tenants. Such concerns are countered
12 by recent studies that analyze the effects of STVRs within the CITY and conclude:

- 13 a) STVRs in the Coastal Zone provide a substantially more affordable option
14 than hotels/motels in either the Coastal Zone or the CITY;
- 15 b) The lack of affordable overnight accommodations was cited by 75% of
16 surveyed Californians as a problem factor when visiting the coast and is even
17 more of an issue for low-income families and "communities of color";
- 18 c) The operation of STVRs has created \$471 million in overall economic
19 activity;
- 20 d) The operation of STVRs has created approximately 5,000 jobs;
- 21 e) The degree to which the long-term housing supply is impacted by STVRs is
22 negligible; and,
- 23 f) The presence of STVRs do not result in heightened nuisance issues in
24 residential neighborhoods, but may reduce the rate of nuisance complaints
25 (therefore, any claimed nuisance abatement action concerning STVRs by the
26 CITY is a pretext to avoid its coastal program obligations).

27 10. According to the CITY's own Planning Division Staff Report dated June 23,
28 2015:

1 The trend of converting residential units into full- or part-time vacation
2 rentals has become increasingly popular, especially in vacation destination
3 communities such as Santa Barbara...Short-term rentals also provide
4 travelers and tourists with an alternative to traditional lodging and dining
5 establishments and provide a unique view into life in Santa Barbara. Guests
6 can select from a variety of housing options and have a unique experience of
7 staying in a home in a neighborhood...The growing industry of online
8 marketing sites such as Airbnb, VRBO, Homeaway, Vacasa and many others
9 are making short-term rentals more accessible to vacationers and travelers
10 than ever before.

11 11. STVRs are the topic of national controversy. They are regulated, rather than
12 prohibited, in other nearby coastal communities including Goleta, Ventura, Malibu, Santa
13 Cruz, Morro Bay, San Luis Obispo, Carlsbad, Encinitas, Newport Beach, and Manhattan
14 Beach. The Coastal Commission has provided its written opinion that a prohibition of
15 STVRs is contrary to the California Coastal Act. According to the Coastal Commission, a fair
16 and narrowly tailored approach regulating STVRs will promote and expand affordable
17 coastal visitor opportunities but also address neighborhood concerns.

18 **THE COASTAL ACT AND THE CALIFORNIA COASTAL COMMISSION**

19 12. The California Coastal Act of 1976 ("the Coastal Act") declares that the
20 Coastal Zone "is a distinct and valuable natural resource of vital and enduring interest to all
21 the people," that protecting its "natural and scenic resources is a paramount concern to
22 present and future residents of the state and nation," and that "maximum access" to the
23 coast "shall be provided for all the people." (Public Resources Code §§ 30001(a)-(b),
24 30210.) Its purpose, *inter alia*, is to promote and preserve public access to coastal
25 resources and to balance the interests of private property owners and the public interest in
26 coastal resources. The Coastal Act provides a comprehensive scheme to govern land use
27 planning for the entire coast of California and creates a shared responsibility between local
28 governments and the Coastal Commission for the planning of coastal development. The
Coastal Act reflects strong rules of public policy adopted for the public's benefit that
implicate matters of vital interest. A fundamental concern of the Coastal Act is to ensure
state policies prevail over the concerns of local government. (Pub. Res. Code § 30000 et

1 seq.) One of the basic mandates of the Coastal Act is to maximize public access and
2 recreational opportunities within coastal areas. (Cal. Const. Art. 10, § 4, Pub Res. Code §
3 30210.) It further provides, “Development shall not interfere with the public’s right of
4 access to the sea where acquired through use or legislative authorization, including but not
5 limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial
6 vegetation.” (Pub. Res. Code § 30211.)

7 13. As defined within the Coastal Act, “coastal zone” means:

8 [T]hat land and water area of the State of California from the Oregon border
9 to the border of the Republic of Mexico, specified on maps identified and set
10 forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular
11 Session enacting this division, extending seaward to the state’s outer limit of
12 jurisdiction, including all offshore islands, and extending inland generally
13 1,000 yards from the mean high tide line of the sea. In significant coastal
14 estuarine, habitat, and recreational areas it extends inland to the first major
15 ridgeline paralleling the sea or five miles from the mean high tide line of the
16 sea, whichever is less, and in developed urban areas the zone generally
17 extends inland less than 1,000 yards. The coastal zone does not include the
18 area of jurisdiction of the San Francisco Bay Conservation and Development
19 Commission, established pursuant to Title 7.2 (commencing with Section
20 66600 of the Government Code), nor any area contiguous thereto, including
21 any river, stream, tributary, creek, or flood control or drainage channel
22 flowing into such area.

23 14. The Coastal Act requires local governments to develop local coastal
24 programs, comprised of a land use plan and a set of implementing ordinances designed to
25 promote the Coastal Act’s objectives of protecting the coastline, its resources, maximizing
26 public access, and assure orderly, balanced utilization and conservation of coastal zone
27 resources taking into account the social and economic needs of the people of the State.
28 (Pub. Res. Code §§ 30001.5, 30500-30526.)

15 15. The California Coastal Commission (the “Coastal Commission”) was created
16 under the Coastal Act to lead the implementation of the Coastal Act. The Coastal
17 Commission regulates land and water uses along the coast and guides the development and
18 implementation of “local coastal programs” that shape local land use planning and
19 development decisions. Under the Coastal Act provision stating that authority for issuance

1 of coastal development permits shall be delegated to local governments, the Coastal
2 Commission's duty to cede permitting authority to local governments is conditioned on the
3 local government first establishing permitting procedures, adopting ordinances prescribing
4 them, and informing the commission. (Pub. Res. Code § 30600.5, subds. (a), (b), (e), (f).)
5 Central to a city's delegated authority under the Coastal Act is not only the adoption of a
6 local coastal program ("LCP"), but enforcement of the policies set forth in its LCP when
7 considering development permit applications. (Pub. Res. Code §§ 30000 et seq.) Local
8 government entities within the coastal zone are required to have a LCP which certifies that
9 land use and development within the jurisdiction of said local entities conforms to the
10 policies of the Coastal Act. The portion of the CITY lying within the Coastal Zone is shown
11 on the map attached hereto as **Exhibit C**.

12 16. The CITY's LCP was adopted by the City Council and certified by the Coastal
13 Commission in 1981 when STVRs virtually did not exist. The CITY's Implementation Plan
14 ("IP") was adopted by the City Council and certified by the Coastal Commission in 1986.
15 After a LCP and IP are certified by the Coastal Commission, the development review
16 authority is no longer exercised by the Coastal Commission but, rather, is delegated to the
17 local government that implemented the LCP and IP. In 2014, the Coastal Commission
18 awarded a \$123,000.00 grant to the CITY to update its LCP in order to address "the very old
19 LCP policies and development standards." Any updates to the CITY's LCP are not effective
20 until formally certified by the Coastal Commission as meeting the requirements and
21 furthering the policies of the Coastal Act. Initially, it was estimated that the update process
22 would be completed by April of 2017, but according to the CITY's website, it has not
23 scheduled any public meetings or provided updates about the status of the amendment
24 process. By failing to advance its LCP update, the CITY has missed a key opportunity in
25 applying the Coastal Commission's grant award to hold public workshops, analyze the
26 impact of STVRs from diverse perspectives, seek and obtain Coastal Commission input, and
27 employ reasonable and balanced regulation designed to address the primary concerns of
28 neighborhood compatibility and diminished affordable housing stock while allowing for

regulated STVRs in residential and other zoning districts.

17. Chapter 28.44 of the Santa Barbara Municipal Code (“SBMC”) was established for the purpose of implementing the Coastal Act and to ensure that all public and private development in the CITY’s Coastal Zone is consistent with the CITY’s LCP and the Coastal Act. (SBMC § 28.44.010.) Any “development” within the CITY’s Coastal Zone requires the submission of a Coastal Development Permit Submittal Packet for the CITY to process. In order to approve a CDP, the City must make findings that the project is both consistent with the policies of the Coastal Act and the LCP. (SBMC § 28.44.150.) If successful, the applicant will receive a Coastal Development Permit (“CDP”) from the CITY. Under the Coastal Act’s legislative scheme, a LCP and CDP issued by the local government are not solely a matter of local law, but embody state policy. (Pub. Res. Code § 30000 et seq.)

18. Under the Coastal Act, Public Resources Code § 30106, “development” is defined as:

... [T]he placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alternation of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

19. The California Supreme Court has rejected a narrow construction of the term “development.” (*Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal. 4th 783.) An expansive interpretation of “development” is consistent with the mandate that the Coastal Act is to be “liberally construed to accomplish its purposes and objectives.”

1 (*Id.* at 796-797; Pub. Res. Code § 30009.) A project that would decrease intensity of use,
2 such as limiting public access to the coastline, is considered “development” under the
3 Coastal Act. (*Id.* at 795.) Public access and recreational policies of the Coastal Act should be
4 broadly construed to encompass all impediments to access, whether direct or indirect,
5 physical or nonphysical. (*Surfrider Foundation v. California Coastal Commission* (1994) 26
6 Cal.App.4th 151, 158.) “Development” is not restricted to physical alteration of the land.
7 (*DeCicco v. California Coastal Com.* (2011) 199 Cal. App.4th 947, 951.) “Development”
8 extends to conversions and changes of use in Coastal Zones because they change the
9 density or intensity of use.

10 20. On December 6, 2016, the Coastal Commission issued a policy statement on
11 the regulation of STVRs within the Coastal Zone. The statement, authored by Coastal
12 Commission Chair Steve Kinsey (“STVR Policy Statement”), was sent to all planning and
13 community development directors in the California Coastal Zone, including the CITY’s. A
14 true and correct copy is attached hereto as **Exhibit D**. Addressing the regulation of STVRs,
15 it states:

16 “...vacation rental regulation in the coastal zone must occur within the
17 context of your local coastal program (LCP) and/or be authorized
18 pursuant to a coastal development permit (CDP). The regulation of
19 short-term/vacation rentals represents a change in the intensity of use
20 and of access to the shoreline, and thus constitutes development to
21 which the Coastal Act and LCPs must apply. We do not believe that
22 regulation outside of that LCP/CDP context (e.g. outright vacation rental bans
through other local processes) is legally enforceable in the coastal zone, and
we strongly encourage your community to pursue vacation rental regulation
through your LCP.

23 ...

24 [T]he Commission has not historically supported blanket vacation rental
25 bans under the Coastal Act, and has found such programs in the past not to
26 be consistent with the Coastal Act. In such cases the Commission has found
27 that vacation rental prohibitions unduly limit public recreational access
28 opportunities inconsistent with the Coastal Act...we strongly support
developing reasonable and balanced regulations that can be tailored to
address the specific issues within your community to allow for vacation
rentals, while providing appropriate regulation to ensure consistency with
applicable laws. We believe that appropriate rules and regulations can

1 address issues and avoid potential problems, and that the end result can be
2 an appropriate balancing of various viewpoints and interests.”

3 The STVR Policy Statement concludes:

4 “We believe that vacation rentals provide an important source of visitor
5 accommodations in the coastal zone, especially for larger families and groups
6 and for people of a wide range of economic backgrounds. At the same time
7 we also recognize and understand legitimate community concerns associated
8 with potential adverse impacts associated with vacation rentals, including
9 with respect to community character and noise and traffic impacts. We also
10 recognize concerns regarding the impact of vacation rentals on local housing
11 stock and affordability. Thus, in our view, it is not an ‘all or none’
12 proposition. Rather, the Commission’s obligation is to work with local
13 governments to accommodate vacation rentals in a way that respects local
14 context. Through application of reasonable enforceable LCP regulations on
15 such rentals, Coastal Act provisions requiring public recreational access
16 opportunities be maximized can be achieved while also addressing potential
17 concerns and issues.”

18 21. SBMC § 28.44.030 specifically states, in part, “Any person (including the City)
19 ... wishing to perform or undertake any development within the Coastal Overlay Zone of
20 the City of Santa Barbara must comply with SBMC Section 28.44.” (emphasis added.) An
21 application for a CDP shall be submitted prior to or concurrent with other necessary CITY
22 permits or approvals for said development. A CDP shall be required prior to
23 commencement of any development in the CITY’S Coastal Zone, unless an applicable
24 exclusion applies. In order to approve a CDP, the CITY must find the “development” is
25 consistent with the Coastal Act and with the applicable policies of the CITY’s LCP, all
26 applicable implementing guidelines, and all applicable provisions of the SBMC. (SBMC §
27 28.44.150.)

28 22. Acknowledging the broad interpretation afforded to “development” as
defined by the Coastal Act, the California Supreme Court and the Coastal Commission, the
CITY mandates the issuance of a CDP for the legal conversion of a single family residence to
a STVR because such a conversion amounts to a change of use and therefore is a
“development.” Why does the CITY not apply the same logic when mandating that all
STVRs in the Coastal Zone be re-converted back to single family residential use? While it

1 may not fit neatly within the CITY's strategy to terminate all STVRs, the CITY must be held
2 accountable to comply with the law and be estopped from conveniently denying this
3 change of use, in reverse, does not constitute "development" under the Coastal Act.

4 23. According to the CITY's Memorandum from the CITY's Community
5 Development Director and City Planner to the Mayor and Councilmembers entitled,
6 "Vacation Rental Permitting Process" dated February 23, 2016 ("Vacation Rental
7 Permitting Process Memorandum"), "A proposal to convert an existing residential unit to a
8 nonresidential use is considered "development" under the Coastal Act. If the subject site is
9 located within the Coastal Zone, the proposal will be subject to SBMC Chapter 28.44
10 (Coastal Overlay Zone) and require either a Coastal Exemption or a Coastal Development
11 Permit." A true and correct copy of the Vacation Rental Permitting Process Memorandum
12 is attached hereto as **Exhibit E**. A true and correct copy of the CITY's "Vacation Rental
13 Conversion Guide" describing the conversion process from a residential use to a STVR is
14 attached hereto as **Exhibit F**. Page 3 of the Vacation Rental Conversion Guide states,
15 "Projects located in the Coastal Zone (SD-3 Zone) will require a Coastal Exemption or
16 Coastal Development Permit and be subject to those submittal requirements." Attached
17 hereto as **Exhibit G** is a true and correct copy of the CITY's Coastal Development Permit
18 Submittal Packet ("CDP Packet"). On page 3 of the CDP Packet, the applicant is required to
19 complete information for the "type of project," where one type of project is a change of use
20 "from _____ to _____." Attached hereto as **Exhibit H** is a true and correct copy of a
21 photograph (except portions redacted for reasons of privacy) of a sign required by the CITY
22 for the applicant to post in front of a subject property going through the development
23 process to convert "a single unit to a vacation rental." The title of the sign in bold, capital
24 letters is, "NOTICE OF DEVELOPMENT." Notwithstanding the CITY's requirement to
25 obtain a CDP to legally convert a single family residence to a STVR, the CITY has failed to
26 obtain its own CDP as part of its implementation of the STVR Ban (defined below) within
27 the Coastal Zone. The STRV ban changes the use of over 1,000 properties.

28 ///

1 24. The Coastal Commission is empowered to oversee local coastal municipal
2 authorities whose interests are often in conflict with the Coastal Act's policies of protecting
3 and maximizing public access to coastal resources. Specifically, local municipalities have
4 elected officials who both reside in the municipality and are elected by their friends,
5 neighbors and constituents who also reside in the municipality. Local officials in beach
6 communities are notorious for protecting and preserving the interests of local residents,
7 property and business owners at the expense of members of the public who desire to
8 access coastal resources, but are not fortunate enough to live there or with the means to
9 afford hotels or motels. Therefore, the Coastal Commission is often at odds with local
10 authorities in beach communities because, in furthering the greater public interest, the
11 Coastal Commission forces these local authorities to allow public access to coastal
12 resources despite inconvenience to and disturbance of local residents.

13 25. Specifically relating to STVRs, the Coastal Act contains a policy outlined at
14 Public Resources Code § 30213, which provides, in part "Lower cost visitor and
15 recreational facilities shall be protected, encouraged, and, where feasible, provided.
16 Developments providing public recreational opportunities are preferred." Public Resources
17 Code § 30222, also states "The use of private lands suitable for visitor-serving commercial
18 recreational facilities designed to enhance public opportunities for coastal recreation shall
19 have priority over private residential, general industrial, or general commercial
20 development, but not over agriculture or coastal-dependent industry."

21 **THE CITY'S LOCAL COASTAL PROGRAM (LCP)**

22 26. The CITY's LCP adopts the policies of the Coastal Act as the guiding policies
23 of the land use plan. (CITY's LCP, p. 19.). It contains provisions and policies consistent
24 with the goals under Chapter 3 of the Coastal Act. Where there are conflicts between the
25 policies set forth in the land use plan and those set forth in any other element of the CITY's
26 existing General Plan or exiting regulations, the policies of the land use plan take
27 precedence. (CITY's LCP, pg. 19.) The SBMC expressly states that where there are
28 conflicting regulations, then the more restrictive law relating to coastal resources shall

1 apply as follows,

2 **SBMC § 28.44.030 Compliance.**

3 Any person (including the City, any utility, any federal, state or local
4 government, or special district or any agency thereof) wishing to perform
5 or undertake any development within the Coastal Overlay Zone of the City
6 of Santa Barbara shall comply with the provisions of this Chapter 28.44. If
7 there is a conflict between a provision of the City of Santa Barbara Local
8 Coastal Program (including the Land Use Plan and the Coastal Overlay
9 Zone Ordinance) and a provision of the General Plan or any other City-
10 adopted plan, resolution or ordinance not included in the City of Santa
11 Barbara Local Coastal Program, and it is not possible for the proposed
12 development to comply with both the Local Coastal Program and such
13 other plan, resolution or ordinance, the Local Coastal Program shall take
14 precedence and the development shall not be approved unless it complies
15 with the Local Coastal Program provision.

16 **SBMC § 28.44.250 General Provisions.**

17 **A. CONFLICTING PERMITS AND LICENSES TO BE VOIDED.** All
18 departments, officials, and public employees of the City vested with the
19 duty and authority to issue permits or licenses shall conform to the
20 provisions of this zone and shall issue no permits or licenses for uses,
21 buildings, or any purpose in conflict with the provisions of this Section.
22 Any such permit or license issued in conflict with this Section shall be null
23 and void.

24 **B. CONFLICT WITH OTHER REGULATIONS.** Where conflicts occur
25 between the regulations contained in this Section and the building code,
26 other sections of Title 28 of this Code, or other regulations effective within
27 the City, the more restrictive of such laws, codes or regulations shall apply.

28 It is not intended that this Section shall interfere with, abrogate or annul
any easement, covenant, or other agreement now in effect; provided,
however, that where this Section imposes a greater restriction upon the
use of buildings or land or upon new construction than are imposed or
required by other ordinances, rules, or regulations, or by easements,
covenants, or agreements, the provisions of this Section shall apply.
Nothing contained in this Section shall be deemed to repeal or amend any
regulation of the City requiring a permit, license, and/or approval, for any
business, trade, or occupation, nor shall anything in this Section be
deemed to repeal or amend the building code. If provisions of this Section
overlap or conflict, the most protective provision relating to coastal
resources shall apply. (emphasis added.)

///
28

1 In effect, what this means is that a change in use of a structure (e.g., from STVR to
2 single family residence), whether legal or illegal, requires a Coastal Development Permit,
3 which the CITY did not obtain in deciding to implement its ban of STVRs. Moreover, while
4 the Coastal Act allows a local government to enact more restrictive regulations without
5 amending its LCP (Pub. Res. Code § 30005), decisions which conflict with the purposes to
6 be served by the Coastal Act require approval by the Coastal Commission in the form of a
7 certified amendment to the LCP. (*Yost v. Thomas* (1984) 36 Cal.3d 561, 573.)

8 27. The CITY's LCP has the following policy requirements: (1) that visitor-
9 serving commercial and recreational uses shall have priority over all other uses (except
10 agriculture and coastal dependent industry), and (2) that lower cost visitor-serving uses
11 shall be protected and encouraged. To comply with those policies, the CITY must ensure
12 that existing visitor-serving opportunities are protected; that land use policies give priority
13 to visitor-serving uses in new development decisions; and that lower cost visitor serving
14 uses are provided. (CITY's LCP, page 61.) In addition to visitor-serving recreational uses,
15 preservation of lower cost lodging and restaurants is important. Preservation of lower cost
16 uses can be achieved, in part, by: (1) ensuring that an adequate supply of lodging and
17 restaurant opportunities is available so that demand does not result in exclusive prices;
18 and, (2) maintaining and encouraging a range of price and type of lodging units available.
19 Ensuring an adequate supply of overnight lodging and restaurants will require control of
20 conversions of visitor-serving uses to other uses, and encouragement of new visitor serving
21 uses in appropriate areas as demand increases. Similarly, for development of new
22 overnight accommodations, a possible condition of development should require a range of
23 accommodations. (CITY's LCP, p. 67.)

24 **THE CITY'S BAN ON SHORT TERM VACATION RENTALS**

25 28. For decades, STVRs operated undisturbed in Santa Barbara. The CITY issued
26 business licenses to STVR owners and collected substantial Transient Occupancy Taxes
27 ("TOT"). Further perpetuating the reasonable belief that STVRs were legal in the CITY the
28 CITY went on a "campaign" in 2010 and 2014 to identify STVR owners who had not paid

TOT to “bring them into compliance” by offering an “amnesty program.” The CITY went on the “campaign” due “primarily in response to concerns from the lodging industry of the competitive advantage afforded vacation rental operators who were not paying the 12% TOT applicable to daily room rates. According to a City Council Agenda Report dated, June 23, 2015, there were only 53 registered STVRs paying TOT in 2010; in June of 2015, there were 349. (June 23, 2015 Agenda Report, p. 6.) A true and correct copy of relevant excerpts from the June 23, 2015 City Council Agenda Report is attached hereto as **Exhibit I**.

29. SBMC Title 28 (the “Zoning Ordinance”) contains regulations related to the planning, zoning and development review in the CITY. In 2015, the City Attorney determined that STVRs constitute a “Hotel” pursuant to SBMC § 28.04.395, which provides:

Hotel: ‘A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to, establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses.’

30. SBMC § 28.04.395 was drafted in 1954, was last amended in 1983, and does not specifically address STVRs. On page 6 of the Agenda Report for City Council Meeting of August 11, 2015, CITY’s staff acknowledges the SBMC does not define the term “vacation rental,” provides a recommendation for its definition, and explains the deficiency: “Need for clarity in existing zoning ordinance. The sharing economy and use of the Internet to book commercial transactions (transportation, rooms or homes) did not exist when the City’s zoning definitions and regulations were adopted. Applying existing regulations to this new and rapidly expanding phenomenon has proven challenging. Initiating a Zoning Ordinance amendment to add relevant definitions and clarify regulations will be beneficial to both the public and staff.” A true and correct copy of relevant excerpts from the Agenda Report for City Council Meeting of August 11, 2015 is attached hereto as **Exhibit J**.

However, by classifying STVRs as “Hotels” under the SBMC, STVRs are prohibited everywhere in the CITY, including the Coastal Zone, with limited exception in the CITY’s

Commercial and R-4 Zones. While the CITY ostensibly offers an “approval process” for the legal conversion of residential homes to STVRs solely in limited commercially zoned areas, the restrictions are so onerous as to amount to a wholesale ban of STVRs. The Vacation Rental Conversion Guide and the Vacation Rental Permitting Process Memorandum demonstrate the complexity, duration, and expense of the review and approval process. The conversion of one unit from residential use to STVR in the Coastal Zone is a discretionary review process, subject to the Nonresidential Growth Management Program (the “GMP”), that requires a Development Plan, and approval by the Planning Commission and possibly other boards since, for example, even any exterior alterations (e.g. new parking spaces, changes to doors and windows, building colors, or landscape) require approval by either the Architectural Board of Review or the Historic Landmarks Commission. Depending on the site’s location, the GMP may require the transfer of development rights from *another* site. In the City Council meeting on June 23, 2015, Council Member Gregg Hart remarked there was only one STVR permitted in the entire CITY and it had taken two years to legalize. The conversion of more than one unit in the Coastal Zone requires a Hotel Conversion Permit, which requires even *more* scrutiny. According to the Memorandum, “The process to obtain such a [Hotel Conversion Permit] is admittedly onerous and, since its adoption in 1979, the City has *never received* an application for, or issued, a Hotel Conversion Permit.” (Vacation Rental Permitting Process Memorandum, **Exhibit E** p. 2.) Numerous properties within the Coastal Zone that have historically operated as a STVR are more than one unit (e.g. duplex or triplex). There are additional requirements for the conversion of all STVRs related to parking, water, building and fire code compliance, and storm water management program (SWMP) compliance. Parking requirements are burdensome and require the same standards as hotels for all STVRs: one parking space per sleeping unit. For STVRs, a bedroom is considered a sleeping unit. In addition, a separate water meter must be installed and water will be delivered at commercial rates. Moreover, the CITY’s Building and Safety Division and/or the Fire Department may require upgrades and permits for accessibility, proper exiting,

1 and fire separation.

2 31. Relying on the definition of “Hotel” in SBMC § 28.04.395 and ignoring the fact
3 the ordinance was enacted fifty years before the emergence of the burgeoning STVR
4 industry which was fueled by the CITY’s implied consent thereof, and disregarding the
5 recommendation of CITY’s Staff of the “need for clarity,” the CITY has determined that all
6 STVRs in areas other than Commercial and R-4 Zones are unlawful and that the vast
7 majority of STVRs in the Commercial and R-4 Zones are non-compliant. On June 23, 2015, a
8 public hearing was held for the City Council to provide direction to City Staff regarding
9 regulation and enforcement of SBMC § 28.04.395 against STVRs. KRACKE, along with over
10 two hundred fifty (250) other concerned citizens and STVR owners, the overwhelming
11 majority of which opposed efforts by the CITY to impose the STVR ban, attended the
12 hearing.

13 32. At the conclusion of the STVR hearing on June 23, 2015, the City Council
14 unanimously approved a motion to “enforce existing regulations prohibiting Vacation
15 Rentals” in “tiered” priority levels, with the goal that all STVR properties would be subject
16 to the enforcement of SBMC § 28.04.395 by no later than January 1, 2017. City Council
17 directed Staff to develop and implement a comprehensive enforcement program designed
18 to completely eliminate all STVRs impermissibly operating in all zones including STVRs
19 operating within the Coastal Zone (the “STVR Ban”). The action taken by the City Council
20 represented a fundamental change in policy that, essentially, eliminated approximately
21 99% of all STVRs within the CITY as of January 1, 2017. A document generated by the
22 CITY entitled, “Council Hearing on Vacation Rentals Scheduled (tent.) for Tuesday, June 23,
23 2015 at 6 PM [Council Agenda Report] Outline – 5-18-15” indicates internal conversations
24 with the City Attorney occurred about the Coastal Commission review process. The
25 document reads , “Consult with City Attorney regarding Coastal Commission review
26 process.” A true and correct copy of the document is attached hereto as **Exhibit K**. Thus,
27 the CITY was aware of but intentionally ignored the requirements of its LCP, the Coastal
28 Act, and the Coastal Commission review process.

1 33. The CITY's Planning Division Staff Report dated October 11, 2016, describes
2 the comprehensive enforcement plan the CITY has implemented. As of September 19,
3 2016, the CITY is prosecuting 1,011 STVR enforcement cases. In the past year, the CITY has
4 issued 44 legislative subpoenas, entered into 32 settlement agreements with owners of
5 STVRs (with another 10 in the process of being finalized), 19 enforcement cases have been
6 closed, and 17 properties have voluntarily surrendered their business licenses without the
7 threat of enforcement. KRACKE's own business, Paradise Retreats, was subpoenaed by the
8 City Attorney and ordered to release the names of each and every client whose rental
9 property was managed by Paradise Retreats, for the purpose of enforcing the STVR Ban.
10 Paradise Retreats was compelled to comply with the subpoena in order to avoid facing
11 contempt charges and being levied with substantial fines.

12 34. In June of 2015, there were 349 registered STVRs within the CITY (with
13 approximately 97 registered STVRs located within the Coastal Zone). As of September 23,
14 2016, there were 215 registered STVRs operating within the CITY (or a reduction of 38%).
15 Commencing January 1, 2017, the CITY initiated enforcement action against any
16 unpermitted STVR within its limits in order to eliminate all STVRs that have not been
17 legalized.

18 35. Consequently, tens of thousands of people, on an annual basis, will be
19 deprived of the option to stay at STVRs in the Coastal Zone. In comparing the statistics of
20 the properties managed by KRACKE within the Coastal Zone for the first quarter of 2016 (a
21 period of time prior to the full enforcement of the STVR Ban on January 1, 2017) with the
22 first quarter of 2017, there has been an 87% reduction in the number of guests who have
23 stayed at such properties. In the first quarter of 2016, 156 guests stayed at properties
24 KRACKE managed within the Coastal Zone; in the first quarter of 2017, the number of
25 guests for these same properties was reduced to 21. Upon information and belief, KRACKE
26 is informed that the majority of these owners will likely discontinue utilizing their
27 respective property as STVRs within the next year. Therefore, the CITY's implementation
28 of the STVR Ban and its broad enforcement efforts has intentionally caused a substantial,

1 direct and quantifiable change in the density and intensity of use of land and the intensity
2 of use of water, or of access to the coast for, potentially, hundreds of thousands of visitors
3 on an annual basis.

4 36. The change in the intensity of use of land or of access to the coastline caused
5 by the CITY's actions in banning all STVRs as of January 1, 2017, is further evidenced by a
6 75% decrease in Transient Occupancy Tax collected by the CITY during the month of
7 January in 2017. A true and correct copy of the Media Release issued by the City's Treasury
8 Manager detailing the reduction of taxes collected from STVRs is attached hereto as
9 **Exhibit L.** Thus, it is apparent those visitors who would have stayed at STVRs elected not
10 to stay at hotels or motels in the CITY and, therefore, were deprived of access to the CITY's
11 Coastal Zone.

12 37. As alleged herein, the CITY's actions in enforcing the zoning ordinance
13 against all unpermitted STVRs as of January 17, 2017, amount to "development" under the
14 Coastal Act and requires a CDP or, alternatively, an amendment to the CITY's LCP approved
15 and certified by the Coastal Commission. The CITY's decision to implement the STVR Ban is
16 wholly inconsistent with the Coastal Act, does not conform to the CITY's LCP (including its
17 policy requirements) or the SBMC, and will unreasonably interfere with and diminish
18 public access to valuable coastal resources, lower cost housing alternatives, and unique
19 recreational opportunities.

20 **FIRST CAUSE OF ACTION**

21 (Traditional Mandate Against CITY Per Code of Civ. Proc. § 1085)

22 38. KRACKE incorporates herein by reference each of the allegations contained
23 in paragraphs 1-37.

24 39. The STVR Ban, as alleged hereinabove, constitutes "Development" as defined
25 in the Coastal Act and the SBMC and, accordingly, is subject to the application process for a
26 CDP before it can be adopted or implemented by the CITY.

27 40. The CITY, acting by and through its City Manager, City Attorney, City Clerk or
28 other authorized agents or employees, has a clear legal duty to submit an application for a

CDP to the Planning Commission or the Staff Hearing Officer in order to obtain approval of the STVR Ban.

41. At least one public hearing shall be held on each application requiring a CDP pursuant to SBMC Section 28.44.120. In order to approve a CDP, it must be found that the project is consistent with the Coastal Act and with the applicable policies of the CITY's LCP, all applicable implementing guidelines and all applicable provisions of the SBMC.

42. KRACKE, by virtue of his ownership of the subject business which manages and operates eight (8) rental properties within the Coastal Zone, has a beneficial interest conferring standing on him to seek a traditional writ of mandate.

43. KRACKE has standing under a public right because the public interest will suffer if the CITY is not compelled to perform. The Coastal Act authorizes any person to bring an action to enforce the duties imposed by the Coastal Act. Public Resources Code § 30804.

44. KRACKE has exhausted his administrative remedies and has no plain, speedy or adequate remedy at law outside of traditional mandate.

SECOND CAUSE OF ACTION

(Civil Fines Under California Coastal Act for Unpermitted Development)

45. KRACKE incorporates herein by reference each of the allegations contained in paragraphs 1-37 and 39-44.

46. Pursuant to Public Resources Code section 30820, subdivision (a)(1) the Coastal Act provides for civil fines as follows:

Any person who violates any provision of this division may be civilly liable in accordance with this subdivision as follows:

- (1) Civil liability may be imposed by the superior court in accordance with this article on any person who performs or undertakes development that is in violation of this division or that is inconsistent with any coastal development permit previously issued by the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan, in an amount that shall not exceed thirty thousand dollars (\$30,000) and shall not be less than five hundred dollars (\$500).

1 47. CITY violated the Coastal Act by (a) adopting the STVR Ban; and (b) adopting
2 an enforcement program in furtherance of the STVR Ban, both of which constitute
3 “development” under the Coastal Act, without first obtaining a CDP or amending its LCP
4 and obtaining certification by the Coastal Commission.

5 48. By virtue of its Coastal Act violation as described herein, under Public
6 Resources Code § 30820(a)(1), the CITY is liable for civil fines up to thirty thousand dollars
7 (\$30,000.00) per violation.

8 **THIRD CAUSE OF ACTION**

9 (Declaratory Relief Under the Coastal Act)

10 49. KRACKE incorporates herein by reference each of the allegations contained
11 in paragraphs 1-37, 39-44 and 46-48.

12 50. An actual controversy exists between KRACKE and the CITY in that the CITY
13 has violated and continues to violate the Coastal Act, its LCP, and the SBMC.

14 51. Because a controversy exists among the parties, a declaration of the rights
15 and responsibilities of the parties with respect to compliance with the Coastal Act and the
16 Santa Barbara Municipal Code is necessary. KRACKE seeks a declaration from this Court
17 that the CITY’s acts as alleged herein constitute a violation of the Coastal Act and the Santa
18 Barbara Municipal Code conducting a “development” in the Coastal Zone without obtaining
19 a Coastal Development Permit and/or amending and obtaining certification of its Local
20 Coastal Program.

21 **FOURTH CAUSE OF ACTION**

22 (Injunctive Relief Under the Coastal Act)

23 52. KRACKE incorporates herein by reference each of the allegations contained
24 in paragraphs 1 -37, 39-44, 46-48 and 50-51.

25 53. KRACKE has no adequate remedy at law to reverse the consequences of the
26 CITY’s unlawful acts as alleged herein. Civil fines alone will not allow for a return to the
27 original intensity and density of use of the land and access to the coastline in the City of
28

1 Santa Barbara. Accordingly, KRACKE, and the public generally, will be irreparably harmed
2 in that they will be deprived of access to nearby and affordable coastal resources.

3 54. KRACKE is entitled to a preliminary and permanent injunction commanding
4 the CITY to cease enforcement of Santa Barbara Municipal Code § 28.04.395 against all
5 short-term vacation rentals of properties in the CITY's Coastal Zone. Alternatively,
6 KRACKE seeks to enjoin the CITY from enforcing Santa Barbara Municipal Code § 28.04.395
7 until the CITY either:

- 8 1) Obtains a Coastal Development Permit to enforce Santa Barbara Municipal Code
9 § 28.04.395; or
10 2) Updates and obtains certification from the Coastal Commission for its Local
11 Coastal Program, *whichever occurs first*.

12
13 **WHEREFORE**, Petitioner and Plaintiff THEODORE P. KRACKE prays for judgment
14 against Respondent and Defendant CITY OF SANTA BARBARA as follows:

- 15 1. For a writ of mandate preliminarily and permanently enjoining Respondent from
16 implementing and executing the STVR enforcement program;
17 2. For a writ of mandate commanding Respondent to file an application for a
18 Coastal Development Permit pursuant to SBMC § 28.44.120, or, alternatively, to
19 file an application to amend its LCP and obtain certification by the Coastal
20 Commission;
21 3. A declaration of the rights and responsibilities of the parties with respect to the
22 Coastal Act and the Santa Barbara Municipal Code. Specifically, a declaration
23 that the CITY's actions as set forth in the Petition/Complaint are continuing
24 violations of the Coastal Act and the Santa Barbara Municipal Code;
25 4. A civil fine pursuant to Public Resources Code § 30820;
26 5. For attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and/or any
27 other applicable provision(s) of law;
28 6. For costs of suit incurred herein;

1 7. For interest as allowed by law; and

2 8. For such other and further relief as this court deems just and proper.

3
4 Date: March 30, 2017

ROGERS, SHEFFIELD & CAMPBELL, LLP

5
6 

7 Travis C. Logue

8 Jason W. Wansor

9 Attorneys for Petitioner/Plaintiff

10 THEODORE P. KRACKE

VERIFICATION

I, Theodore P. Kracke, am the Petitioner/Plaintiff in the above-entitled action. I have read the foregoing FIRST AMENDED WRIT OF MANDATE AND COMPLAINT FOR 1) CIVIL PENALTIES FOR VIOLATION OF THE CALIFORNIA COASTAL ACT; 2) INJUNCTIVE RELIEF UNDER THE COASTAL ACT; 3) DECLARATORY RELIEF UNDER THE COASTAL ACT and know the contents thereof. The same is true of my own personal knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 30, 2017 at Santa Barbara, California.

A handwritten signature in black ink, appearing to read 'T. Kracke', written over a horizontal line.

THEODORE P. KRACKE

Exhibit A

Exhibit A

The Average Daily Rate for Short Term Rentals in Santa Barbara: A comparison with Conventional Hotels and Motels

**Is there a significant price differential
between STRs and Hotels ?**

A report prepared by the

California Economic Forecast

5385 Hollister Avenue

Box 207

Santa Barbara, CA 93111

(805) 692-2498

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March 25, 2017

FINAL REPORT

Executive Summary

A recent survey (March 2017) of average daily, weekly, and monthly rates for short term rentals (STRs) in Santa Barbara was conducted. Established industry sourced reports on average daily rates for conventional lodging (hotels/motels) in the City of Santa Barbara were also evaluated.

This study was conducted to ascertain the price differential, if any, between formal lodging establishments and STRs. The comparison indicates that on a per room basis, STRs are significantly less expensive than conventional lodging in the City of Santa Barbara (or elsewhere throughout the South Coast).

In some cases, an entire house or apartment (short term rental) can be rented for the price of an upscale hotel room in Santa Barbara.

Studies conducted elsewhere have demonstrated that STRs around the country including California are generally less in cost than hotels.¹ The comparison was for average listings in cities throughout the world, compared to hotel rooms in that same city. An average listing included apartments and whole homes. Consequently, even when hotels were less expensive than STRs---in the cities of Austin, San Diego and San Francisco---the comparison is between a hotel room and an AirBnB listing which is largely comprised of entire apartments and detached multi-bedroom and multi-bathroom homes.

Short term rentals can be especially cost effective for large families or groups. A family of four or five or two couples traveling together can share a two bedroom apartment or home which is usually less expensive than a pair of hotel rooms.

In fact, the statistical analysis conducted in this study shows that the average per bedroom per night rates for STRs is clearly less in all seasons than the rate per hotel room in Santa Barbara, either in-town or along the beach or within the coastal zone. Further savings occur because rentals include kitchens; families can cook their own food which is less expensive than food away from home. Furthermore, laundry machines enable additional savings, in both time and money.

¹ <https://priceonomics.com/hotels/>
<http://www.businessinsider.com/is-it-cheaper-to-airbnb-or-get-a-hotel-2016-2>

**Comparison of Average Daily Rates / Formal Hotels/Motels versus
Short Term Rentals / City of Santa Barbara**

<u>Season</u>	January – December 2016 Actual Average Rates		2017 STR Rates*	
	<u>Beach Hotels</u>	<u>In Town Hotels</u>	<u>Coastal Zone</u>	<u>In Town</u>
Winter	\$ 218	\$ 175	\$ 145	\$ 154
Spring	\$ 249	\$ 183	NA	NA
Summer	\$ 322	\$ 231	\$ 184	\$ 168
Fall	\$ 270	\$ 207	\$ 159	\$ 153
Annual Average	\$ 265	\$ 199	\$ 163	\$ 156
Percentage difference from Hotels/Motels			- 38%	- 22%

* per room per night

Source: PKF Consulting through Visit Santa Barbara, and STR Survey, described above

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Introduction

In March 2017, The California Economic Forecast prepared a comparative price analysis between Short Term Rentals (STRs) and Hotel/Motels in Santa Barbara.

Because we have conducted previous studies associated with Short Term Rentals in the Central Coast, we were familiar with the industry and the online websites that are routinely used to locate, determine prices, and rent an STR.

We conducted a survey of STR listings on the most popular websites used to search and locate rentals in Santa Barbara County. This survey was conducted between March 10 and 21, 2017.

We obtained information from Visit California at the Santa Barbara Chamber of Commerce on the prices of local hotels and motels. We have been maintaining price and occupancy information on the South Coast lodging industry for the last 20 years. Consequently, we have built a very long and extensive database on ADRs (average daily rates), rates of utilization (occupancy), the hotel inventory, and the total numbers of transient rooms.

Short Term Vacation Rental Price Survey

The survey of STRs in the Santa Barbara area was conducted during the 2 week period of March 10 to 21, 2017. Consequently, the price information is extremely current. The following websites were used to obtain location and price information:

www.VRBO.com,
www.AirBnB.com,
www.ParadiseRetreats.com, and
www.VacationRentalsOfSantaBarbara.com

One prominent website not surveyed was www.HomeAway.com because the company recently purchased VRBO.com, and all HomeAway.com listings are now duplicated on the VRBO.com website.

Properties were selected by using each website's "property search" tool. The search criteria were City (for example: Santa Barbara), number of guests (for example: 2 or more), and dates of stay (see **Seasons** below).

The properties displayed on the search results were then reviewed. For VRBO.com, ParadiseRetreats.com, and VacationRentalsOfSantaBarbara.com, there is a "Rates" tab for each property. Using the Rates tab, we were able to obtain the nightly, weekly, and monthly rental rates per season. For the AirBnB.com website there was no Rates tab. As a result, we had to enter the dates for 9 separate date ranges and review a quote that showed the rental rate for each date range.

Location and price for a total of 150 STRS were obtained. Of this total, 94 were located in the City of Santa Barbara.

STRs by Location

	<u>Total</u>	<u>In Beach Area</u>	<u>In Coastal Zone</u>
Carpinteria	15	15	14
Summerland	8	8	8
Montecito	33	17	16
Santa Barbara	94	34	22
Totals	150	74	60

Seasons

For AirBnB.com, the following 9 date ranges were used for the search criteria dates:

SUMMER	FALL	WINTER
Nightly: 7/15 - 7/18	Nightly: 10/15 - 10/18	Nightly: 1/15 - 1/18
Weekly: 7/15 - 7/22	Weekly: 10/15 - 10/22	Weekly: 1/15 - 1/22
Monthly 7/15 - 8/14	Monthly 10/15 - 11/14	Monthly 1/15 - 2/14

For the comparison to hotels, it would have been appropriate to focus the survey on whole apartments since these would be most comparable to a hotel stay. However, there are few apartments in the population of properties that are listed on the rental websites. Consequently, we used whatever listings were available on the websites. The listings were focused on the entire property (home or apartment) and not a room within a property.

From the survey, we extracted the location of the property, the number of rooms in the property, and the rate per night for 1 to 6 nights, for 7 to 29 nights, and for 30+ nights. As discussed above, rates were obtained for:

Summer (during mid-July)
Fall (during mid October)
Winter (during mid-February)

Gathering this type of information enabled us to determine an average *seasonal* nightly rate per room for short term rental properties:

- 1) for the entire sample of 150 properties
- 2) for STRs in the City of Santa Barbara
- 3) within the coastal zone (or beach area) of Santa Barbara

Overall average rate in 2017

The average cost of an STR property per night is \$524.92. The average number of bedrooms is 2.92. Consequently, the average price per room is

$$\$524.92 / 2.92 = \$179.77$$

This is the average rate over all seasons and for 1 to 6 nights.

The average rate per night per room for a week is \$154.54.

The average rate per night per room for 30 days or more is \$124.83

Seasonal Rates in 2017

Here are the average daily rates by season and length of stay

All Properties in the Survey

Average Price Per Night per Property

<u>Season</u>	<u>Length of Stay</u>		
	<u>1 to 6 nights</u>	<u>1 week</u>	<u>30+ days</u>
Winter	\$481	\$417	\$323
Summer	\$581	\$524	\$420
Fall	\$512	\$455	\$351
Average	\$525	\$451	\$365

Average Price Per Night per Room

<u>Season</u>	<u>Length of Stay</u>		
	<u>1 to 6 nights</u>	<u>1 week</u>	<u>30+ days</u>
Winter	\$165	\$139	\$111
Summer	\$199	\$173	\$144
Fall	\$175	\$152	\$120
Average	\$180	\$154	\$125

Santa Barbara Only

For strictly City of Santa Barbara located STRS, the average daily rates per room and per night are as follows:

	<u>Cost per Night</u>	<u>Cost per Room</u>
Summer	\$450	\$169
Fall	\$407	\$153
Winter	\$399	\$150
Average	\$419	\$157

Number in Sample=94

Avg # Rooms=2.7

Coastal Zone Properties

For Beach area and Oceanfront properties, the average daily rates per room and per night are as follows

	<u>Cost per Night</u>	<u>Cost per Room</u>
Summer	\$660	\$213
Fall	\$567	\$191
Winter	\$507	\$171
Average	\$578	\$195

Number in Sample=60

Avg # Rooms=3.0

Santa Barbara City Coastal Zone

For properties located in the Santa Barbara Coastal Zone, the average daily rates per room and per night are as follows:

	<u>Cost per Night</u>	<u>Cost per Room</u>
Summer	\$469	\$184
Fall	\$406	\$159
Winter	\$371	\$146
Average	\$415	\$163

Number in Sample=22

Avg # Rooms=2.6

Montecito

For properties located in Montecito, the average daily rates per room and per night are as follows:

	<u>Cost per Night</u>	<u>Cost per Room</u>
Summer	\$818	\$248
Fall	\$686	\$208
Winter	\$618	\$187
Average	\$707	\$214

Number in Sample=33

Avg # Rooms=3.3

Carpinteria / Summerland

For properties located in the Carpinteria / Summerland area, the average daily rates per room and per night are as follows:

	<u>Cost per Night</u>	<u>Cost per Room</u>
Summer	\$808	\$235
Fall	\$720	\$210
Winter	\$639	\$186
Average	\$722	\$210

Number in Sample=23

Avg # Rooms=3.4

Summary

The average year around cost for an STR property in the Santa Barbara area per day is \$525. This is the cost for an entire home, condo, or apartment unit with 3 bedrooms.

The per bedroom rate is \$180 per night.

The average year around cost for an STR property in the City of Santa Barbara is \$419 per day. The average per bedroom rate is \$157. The average year around cost for an STR property in Montecito and Carpinteria / Summerland is \$707 and \$722 respectively. Per bedroom per night the rates for Montecito and Carpinteria are \$214 and \$210 respectively.

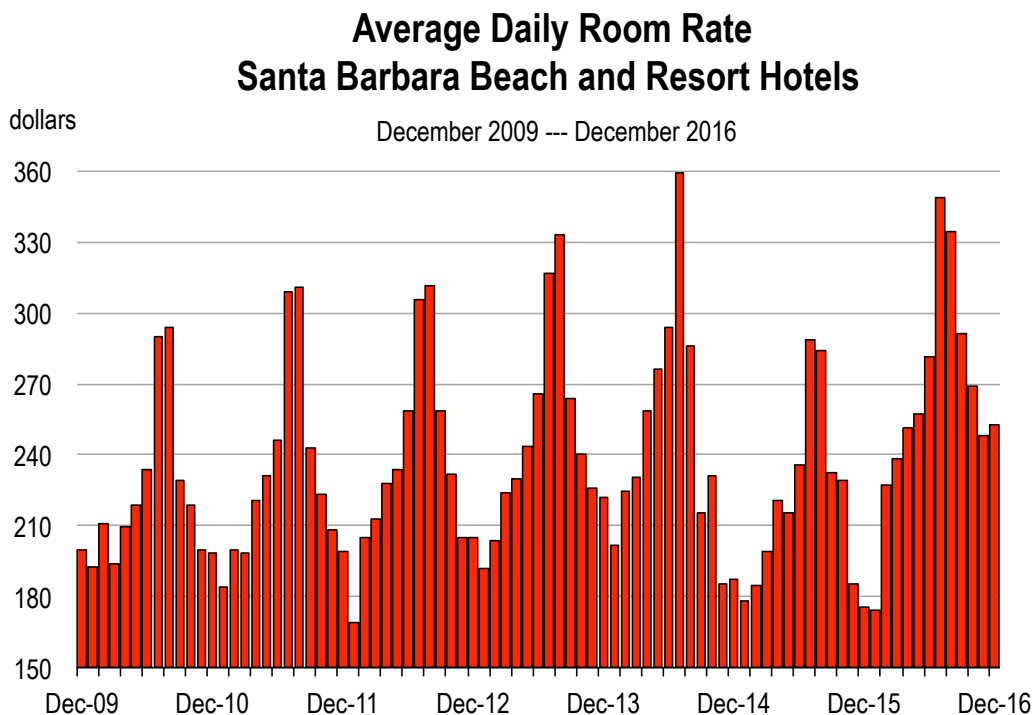
Year around or by season, STR rates per night and per bedroom are less expensive than STR rates in Montecito or Carpinterland / Summeland than in the City of Santa Barbara. There are more STR properties in Santa Barbara and there is more diversity in the type of units for rent.

Santa Barbara Lodging Rates (Formal Hotels & Motels)

Room rates for lodging establishments in Santa Barbara have been gradually rising over time and the current average daily rate is at all time record highs. Data on room rates for all areas of Santa Barbara County are produced by PKF Consulting and distributed by Visit Santa Barbara.

We focus on the ADR (average daily rate) for Santa Barbara Beach hotels and separately for Santa Barbara hotels and motels located off the beach but within the city limits.

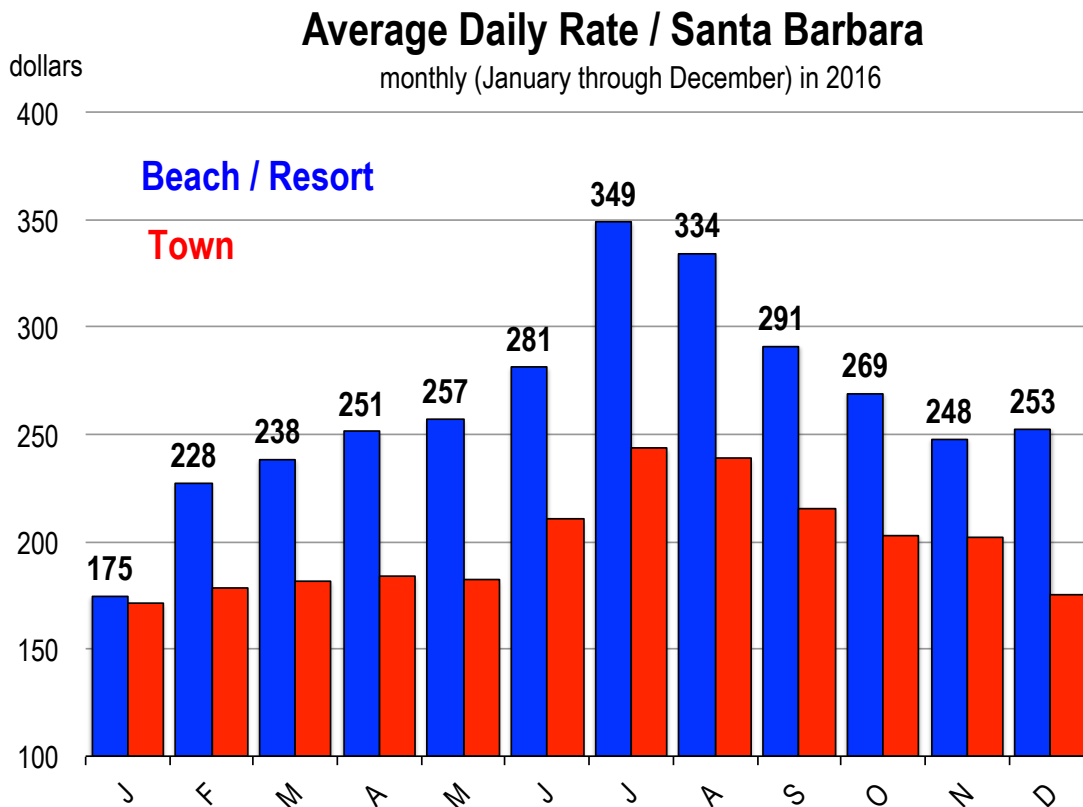
Rates (consistent with the behavior of STR rates over the year) are clearly seasonal, as demonstrated in the following chart.



The high point for the average daily rate came in 2014 when occupancy reached record levels, due in large part to particularly favorable weather in California combined with extraordinarily poor weather in much of the rest of the nation. Occupancy started to stabilize and even weaken in 2015 but it appears that hotels rapidly adjusted their prices to offset any occupancy declines. Demand strengthened in 2016 despite the stronger dollar, due to faster growing economies in the U.S., Canada, Europe, and Asia.

In order to untangle the seasonal volatility, a seasonal adjustment methodology is typically used to evaluate the price and occupancy series' transient lodging over time. However, that is not necessary for the purposes of this report. See Appendix A.

A close up of Santa Barbara hotel average daily rates is shown below by month for the 2016 calendar year, for Beach hotels and for In-Town hotels:



Last year, the July rates averaged \$349 per night. October rates averaged \$269 per night, and February rates averaged \$228 per night.

Now, if you compare with the STR survey above, all of these rates are significantly higher than the average rates per night per room for short term rentals.

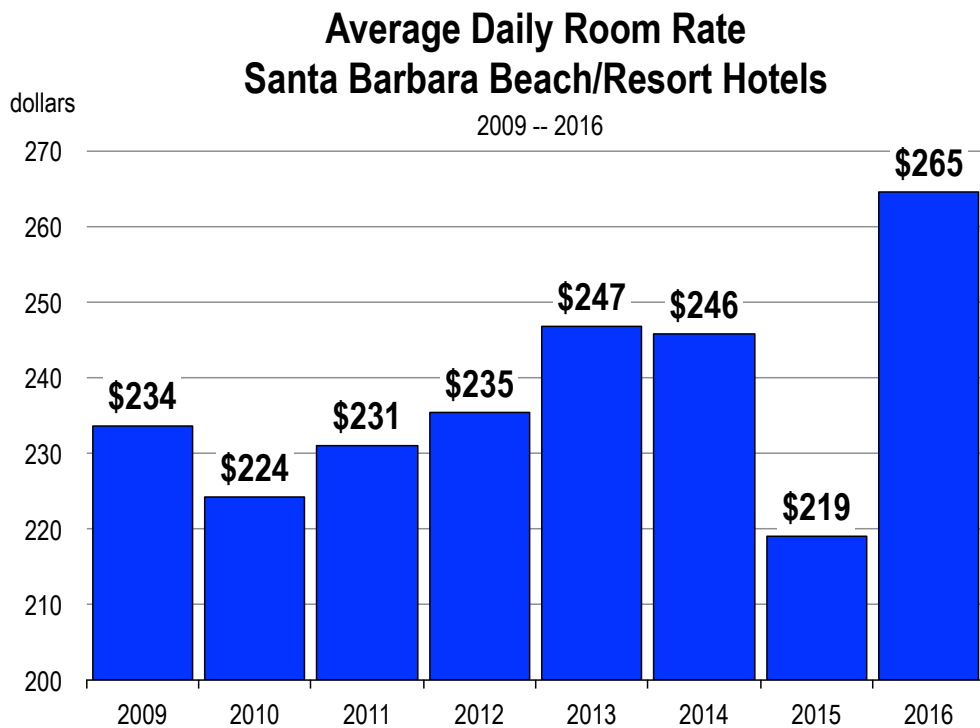
Comparison: Hotels and STRs

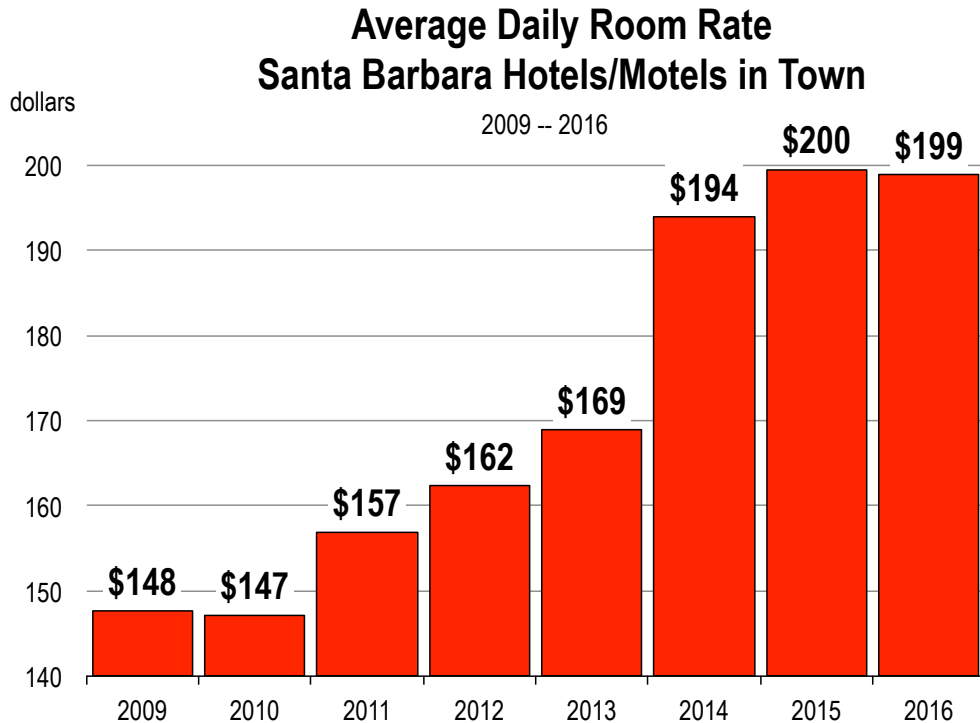
In a short term rental which in Santa Barbara is routinely a detached home, condominium or less frequently, an apartment, guests are able to lodge a family of 4

or more in a 2 or 3 bedroom home or apartment. And clearly, the rental rate is on average, lower than renting 2 or 3 rooms (or a suite) in a hotel. The STR will have additional living space including a kitchen, dining room, and more than one bathroom. It will also typically have laundry facilities, a garage or at least some free parking.

Daily rates are higher for the Beach Resort hotels, currently averaging \$265 per night for Beach area (or Coastal Zone) location, and \$199 per night for other hotels/motels in town.

Annual average rates are presented below for Santa Barbara beach area Hotels and In-town lodging facilities.





These rates are for a room in a hotel, featuring either a king or two queen beds. Basically the room is for 2 people but might be able to sleep a family of 4 under the best of conditions.

A Self Selected Survey of Hotels on Booking.com

A sample of February and March rates for 30 selected hotels in the South Coast region are presented in the following table. This sample was obtained from Booking.com and the daily rate was collected for the most inexpensive room at the lodging facility for a weekday night: Wednesday of February 22, and March 22, 2017.

The average rate for these 30 hotels was \$268.70 for the March date.² Twenty of these hotels are located in the Coastal Zone. The average rate for Coastal Zone properties was actually less at \$235.45. This is because the Canary, El Encanto, and San Ysidro Ranch properties are not in the coastal zone and were therefore removed from the average. The average rate for Santa Barbara only based properties is \$230.30. What this selected survey indicates is that average hotel/motel rates for the most inexpensive option all exceed \$200 per night.

² A similar sample was collected for 25 of the most affordable hotels for the same date. The average rate was \$116. None were in the coastal zone.

Table 1: Lowest Hotel Prices for selected Santa Barbara area lodging for the Wednesday nights of February 22 and March 22, 2017*

<u>Hotel Name</u>	<u>Best Overnight rate</u>	<u>Location</u>	<u>Type</u>
San Ysidro Ranch	945	Montecito	Resort
El Encanto	468	Santa Barbara	Resort
4 Seasons Biltmore	445	Montecito	Resort
Bacara	425	Goleta	Resort
Spanish Garden Inn	329	Santa Barbara	Hotel
Canary Hotel	302	Santa Barbara	Hotel
Harbor View Inn	250	Santa Barbara	Resort
Santa Barbara Inn	239	Santa Barbara	Resort
The Upham Hotel	232	Santa Barbara	Hotel
Courtyard Marriott	229	Goleta	Hotel
Hampton Inn	226	Goleta	Hotel
Double Tree	224	Santa Barbara	Resort
The Eagle Inn	220	Santa Barbara	Beach
Hotel Milo	219	Santa Barbara	Beach
Hotel Indigo	214	Santa Barbara	Beach
Pacifica Suites	209	Goleta	Hotel
Brisas Del Mar	199	Santa Barbara	Beach
Hotel Santa Barbara	189	Santa Barbara	Beach
The Wayfarer	189	Santa Barbara	Beach
Hyatt Centric	186	Santa Barbara	Beach
Montecito Inn	185	Santa Barbara	Hotel
Encina Lodge	179	Santa Barbara	Hotel
West Beach Inn	172	Santa Barbara	Beach
Beach House Inn	172	Santa Barbara	Beach
La Quinta Inn	169	Santa Barbara	Hotel
The Goodland	169	Goleta	Hotel

*on Booking.com. If this date was sold out, we queried the following Wednesday: March 1, 2017, or March 29, 2017. Many of these hotels have a variety of room sizes and amenities and therefore have much higher ADRs than presented here. Also, weekend rates are in nearly all cases, substantially higher. This is particularly true at the El Encanto, Biltmore, Bacara, Hyatt, and Double Tree.

Summary of Hotel Costs in Santa Barbara

The average 2016 rate was \$265 for Beach properties and \$199 for in-town hotels.

The seasonal averages for formal Santa Barbara transient lodging are shown in the table below:

January – December 2016 Actual Average Daily Rate Averages

<u>Season</u>	<u>Beach Hotels</u>	<u>In Town Hotels</u>
Winter	\$ 218.32	\$ 175.03
Spring	\$ 248.92	\$ 182.58
Summer	\$ 321.54	\$ 230.97
Fall	\$ 269.52	\$ 207.06
Annual Average	\$ 264.58	\$ 198.81

Source: PKF Consulting through Visit Santa Barbara, March 2017

Some Additional Comparisons

The Expense of South Coast Hotels are cited as a problem for Coastal Access

It is important to note that a recent article in the Santa Barbara Independent reported on a UCLA study which found the average daily room rate for South Coast hotels among the highest in the state of California.³ The UCLA study by Jon Christensen and Phillip King reported on the lack of affordable lodging options in coastal communities and how this impacts coastal access by Californians. The lack of affordable overnight accommodations was cited by 75 percent of Californians as a problem factor when visiting the coast.⁴

National Comparison of STR and Hotel rates

The fact that STR rates are effectively lower than conventional hotel/motel room rates is not uncommon. There have been many comparison reports prepared on this subject, and all demonstrate that even in expensive cities like New York, Los Angeles, and San Francisco, entire short term rental homes cost less per night than a single room in a hotel.⁵

³ S.B. Hotel Room Rates Among Highest in CA, The Independent, February 10, 2017 edition, <http://www.independent.com/news/2017/feb/10/sb-hotel-room-rates-among-highest-ca/>

⁴ Access for All, What the Coast Means to Californians, And how often they visit, by Jon Christensen, UCLA and Philip King, San Francisco State University, November 2016. <https://www.ioes.ucla.edu/coastal-access/>

⁵ See for example: <https://qz.com/779121/airbnb-vs-hotel-cost-comparison-you-can-rent-an-entire-home-on-airbnb-for-the-price-of-a-hotel-room/>

Please see reference list for more comparison studies.

Summary of Findings

Short term rentals in Santa Barbara rent for an average rate of \$525 per night, and \$419 in the City of Santa Barbara. However, this average rate is associated with an entire 3 bedroom home or condo which includes kitchen facilities and parking, additional rooms and bathrooms and frequently, laundry facilities.

On a per room per night basis, short term rentals are significantly less than conventional hotels and motels in Santa Barbara and the Coastal Zone of Santa Barbara.

The average daily rate is lower for weekly stays in a short term rental whereas weekly stays in a conventional hotel generally offer no such discounts. On a per room basis for families or traveling groups, short term rentals provide a comparatively more affordable alternative to conventional lodging facilities in Santa Barbara including the Coastal Zone.

Season	January – December 2016 Actual Average Rates		2017 STR Rates*	
	Beach Hotels	In Town Hotels	Coastal Zone	In Town
Winter	\$ 218	\$ 175	\$ 145	\$ 154
Spring	\$ 249	\$ 183	NA	NA
Summer	\$ 322	\$ 231	\$ 184	\$ 168
Fall	\$ 270	\$ 207	\$ 159	\$ 153
Annual Average	\$ 265	\$ 199	\$ 163	\$ 156
percentage difference from Hotels/Motels			- 38%	- 22%

NA = not available

* per room per night

Source: PKF Consulting through Visit Santa Barbara, and STR Survey, described above

For a week stay, there is frequently no discount provided at hotels or resorts. But at STRs, surveyed rates clearly demonstrate the existence of a significant discount:

**2017 STR Rate Per Night for Stays
of 1 night and for 7 nights or more**

	<u>For 1 night*</u>	<u>For 7 nights*</u>
Winter	\$165	\$139
Summer	\$199	\$173
Fall	\$175	\$152
Average	\$180	\$154

* per room per night

Source: STR Survey, described above

References

Christensen, Jon, and Philip King, Access for All, A New Generation's Challenges on the California Coast, January 2017

<https://www.ioes.ucla.edu/coastal-access/>

Airbnb vs Hotels: A Price Comparison

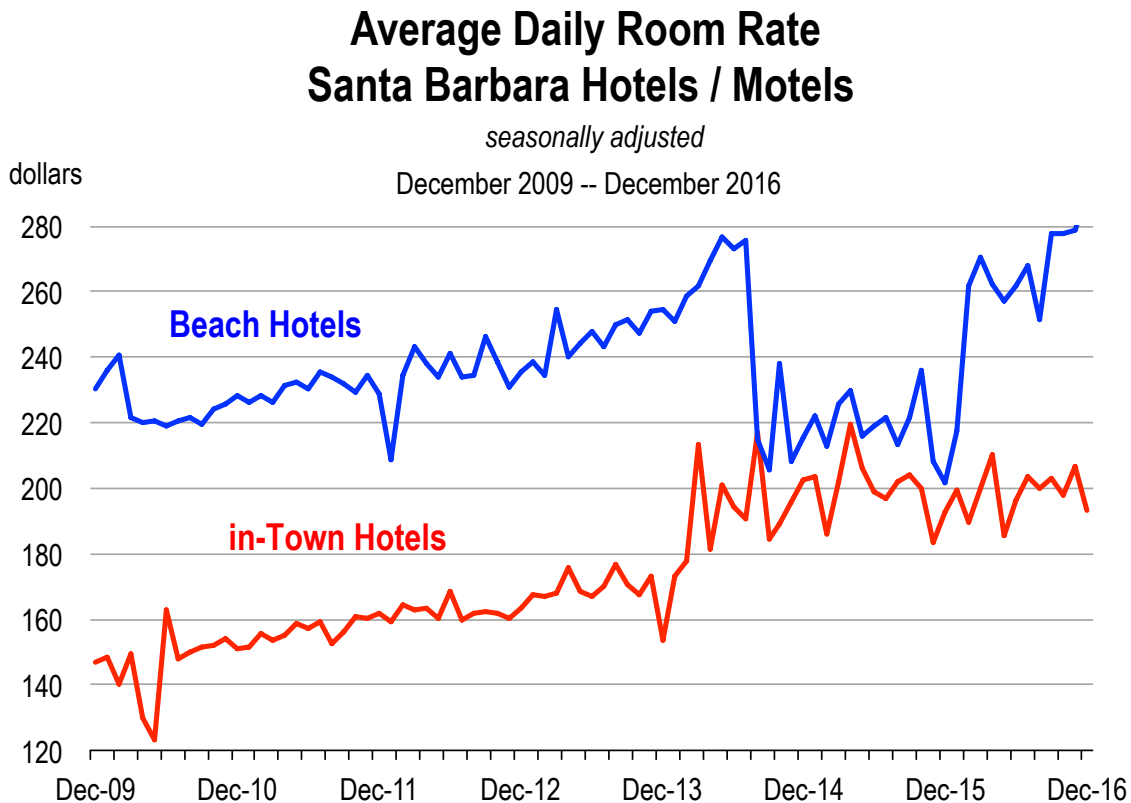
<https://priceonomics.com/hotels/>

Here's where it's cheaper to book an Airbnb over a hotel room

<http://www.businessinsider.com/is-it-cheaper-to-airbnb-or-get-a-hotel-2016-2>

Appendix A

The convention for evaluating average daily room rates over time is to apply a seasonal adjustment factor to produce a more smoothed series. This is a standard statistical approach used when the data series being analyzed exhibits significant seasonal volatility.



When seasonal adjustment is executed properly, the series appears more stable and therefore readable and assessable over time. Note with seasonal adjustment the Beach hotel series does take a dip in late 2014 extending through to November of 2015. We did notice that the average hotel prices were lower during this time period than in past years. This may have been a reporting error on the part of PKF consulting, the source of this information. Alternatively, because occupancy was starting to slip for the most expensive lodging facilities in town at that time, this may have been a more competitive period for local hotels to maintain higher rates of occupancy. During 2015, this was the only period in time in which In-Town Santa Barbara average occupancy was greater than Beach/Resort Hotel average occupancy, over the last 5 years.

Exhibit B

Exhibit B



ACCESS FOR ALL

A New Generation's Challenges on the California Coast

By Jon Christensen,
UCLA, and Philip King,
San Francisco State
University

California is a world leader in protecting its coast and advancing the right of all people to access and enjoy our beaches and ocean. Many other states and countries have modeled their coastal management efforts on California's example. Yet, our state is facing emerging challenges to public access to the coast. In this report, we present new research findings on California's coastal access challenges and make recommendations for addressing them.

The coastal zone “is a distinct and valuable natural resource belonging to all the people.”

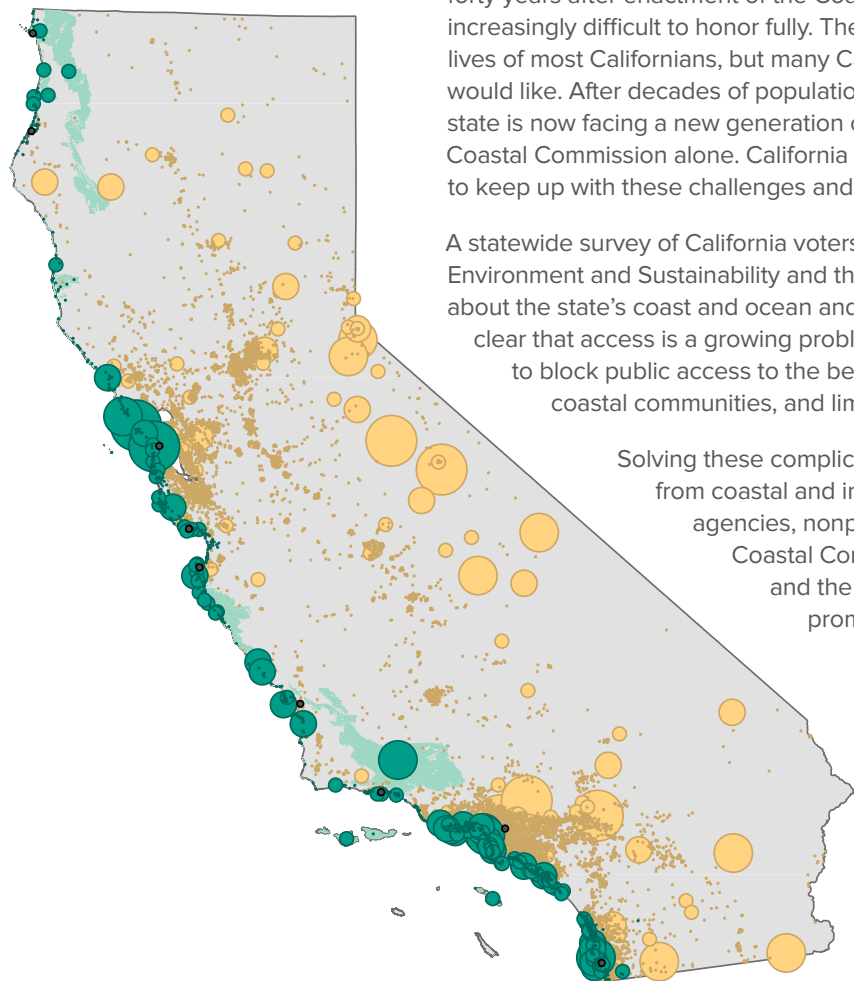
The California Constitution first recognized that coastal tidelands belong to the people of the state in 1849. In 1972, California voters enacted Proposition 20, a landmark law that provided for stronger management of California’s coastal areas and required a statewide program for maximizing public access to the coast, protecting and restoring coastal resources, and balancing new development with conservation. In 1976, the state legislature adopted the California Coastal Act, codifying the state’s policy and responsibilities on the coast, declaring that the coastal zone “is a distinct and valuable natural resource belonging to all the people,” that protecting its “natural and scenic resources” is a “paramount concern to present and future residents of the state and nation,” and that “maximum access” to the coast “shall be provided for all the people.”

The Coastal Act applies to the entire California coast and to all state agencies. To lead the Act’s implementation, the Legislature created the California Coastal Commission (the Commission), an independent state agency, and charged it with regulating land and water uses along the coast and guiding development of “local coastal programs” that, in turn, shape local land-use and development decisions. The Commission considers public access in all of its permitting and planning decisions. The State Coastal Conservancy (the Conservancy), created at the same time as the Commission, plays a complementary, non-regulatory role by supporting acquisition of land and easements that provide coastal access; construction and improvement of coastal trails, recreational facilities, and overnight accommodations; and protection and restoration of coastal resources. Both agencies operate grant programs that support nonprofits’ and public agencies’ efforts to provide coastal access and recreational opportunities as well as outreach, educational, and stewardship programs that focus on the coast.

Since the 1970s, the Commission, the Conservancy, and their many partners have made substantial contributions to protection and enhancement of public access along the coast. Yet forty years after enactment of the Coastal Act, its promise of maximum access for all is proving increasingly difficult to honor fully. The coast remains central to the identity of California and the lives of most Californians, but many Californians are not able to enjoy the coast as much as they would like. After decades of population growth and demographic and land use changes, our state is now facing a new generation of coastal access challenges that cannot be solved by the Coastal Commission alone. California will need innovative policies, programs, and investments to keep up with these challenges and maintain meaningful access to the coast for all.

A statewide survey of California voters conducted in October 2016 by UCLA’s Institute of the Environment and Sustainability and the Field Poll found that Californians care as deeply as ever about the state’s coast and ocean and regularly go to the beach. But their responses make clear that access is a growing problem, challenged by the efforts of some private landowners to block public access to the beach, the high cost of visiting and staying overnight in coastal communities, and limited public transportation options for getting to the coast.

Solving these complicated challenges will require communities and leaders from coastal and inland communities, from the private sector, government agencies, nonprofits, and philanthropic organizations, as well as the Coastal Commission, Coastal Conservancy, California State Parks, and the governor and legislators to work together to fulfill the promise of the Coastal Act in the future.



COASTAL ZONE PARKS AND PUBLIC BEACHES

Our coast and public beaches are a crucial part of California’s system of parks and open spaces. This map shows relative visitation rates to all of California’s local, regional, state, and national parks—on the coast (green) and inland (gold)—which we estimated based on Instagram users who post photos from these public spaces. Data courtesy of Stamen Design.

What the Coast Means to Californians

There is overwhelming concern among Californians about access to the coast and strong public support for keeping the Coastal Act's promise of access for all.

A vast majority of voters in the state—90 percent—told our poll that the condition of the ocean and beaches in California is important to them personally, with 57 percent saying it is “very important.” There is broad agreement across voter subgroups about the importance of the coast, with majorities of voters of all age, ethnic, and income groups, as well as voters in coastal and inland counties, confirming that the condition of California's ocean and beaches is important to them.

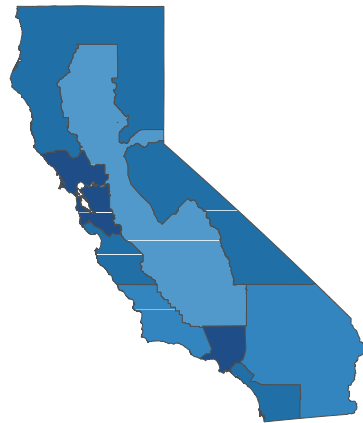
Our coast and beaches are among our most democratic spaces. Three out of four California voters—77 percent—visit the coast at least once a year, and many visit more often. One in four say that they visit the coast once a month or more, while another 38 percent visit several times a year. Voters under age 40, parents of children under age 18, and those residing in coastal counties are more likely than others to visit the coast more frequently.

A beach intercept survey of 1,146 people at eleven Southern California beaches in Ventura, Los Angeles, and Orange Counties, conducted by the authors in the summer of 2016, found that the primary reasons that people come to the coast are widely shared across all demographic groups. We found remarkable consensus among different age, income, and ethnic groups when we asked why they come to the beach, what they do at the beach, and

the obstacles they encounter getting to the beach. Across all of California's diverse demographic groups, people come to the beach to relax and enjoy the scenery, and to give their children a place to play. They come to walk, and wade or swim in the surf. When they get to the beach, they want clean sand and water, and they expect basic amenities such as trash cans, restrooms, and parking.

CALIFORNIANS LOVE THE COAST

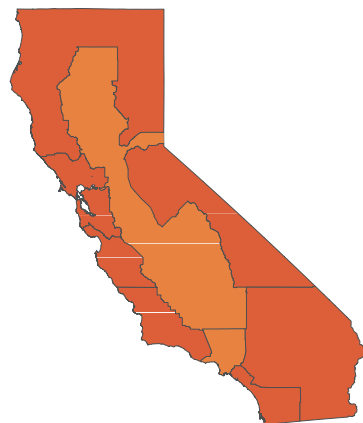
Between 83 and 94 percent of California voters say the condition of our ocean and beaches is important to them personally. Darker colors represent a higher percentage of voters in each region.



Today's Access Issues

Yet, despite the Coastal Act's guarantee of access for all, our poll and beach surveys found significant barriers. Access to the coast was cited as a problem by 62 percent of voters, a significant majority. Limited affordable options for parking were seen as a problem by 78 percent of voters. And 75 percent cited limited options for affordable overnight accommodations, which was rated a big problem at a higher rate by Latino voters and families with children. Limited public transportation options were cited as an important barrier to the coast by 68 percent of voters.

Central Valley voters are less likely to visit the coast, with 39 percent visiting less than once a year. African Americans are also less likely to visit the coast, with 33 percent visiting less than once a year, and 30 percent of those indicating that not knowing how to swim is one reason they do not go to the beach more often. Income is also a factor. Voters with annual household incomes greater than \$60,000 are more likely to visit



LACK OF AFFORDABLE OVERNIGHT ACCOMMODATIONS

Between 73 and 76 percent of California voters say limited affordable options for overnight stays on the coast are a problem. Darker colors represent a higher percentage of voters in each region.

the coast more frequently than those earning less than \$40,000 a year. Our beach intercept surveys corroborated these findings from the statewide poll and also found that the overall cost of visiting the coast is more of a limiting factor for people between 30 and 39 years old and for families with children. And a lack of affordable options for overnight stays is more of a factor for people 18 to 39 years old and families with children.

Beach and Beachgoer Profiles

While people mostly come to the coast and beaches for similar reasons and want similar things when they get there, the demographic profiles of individual beaches can be strikingly different. Some beaches more closely reflect the demographic diversity of California and surrounding communities than others. For example, beachgoers at Santa Monica Beach fairly closely reflect the demographics of California, while also drawing visitors from other states and countries. A little farther south, Dockweiler State Beach, under the flight paths of airliners departing from Los Angeles International Airport, attracts more Latinos, African Americans, and families with lower household incomes than Santa Monica Beach, while farther south, Doheny State Beach in Dana Point in Orange County attracts more white visitors from families with higher household incomes. These patterns are likely the result of a complex combination of factors, including self-sorting, or people choosing beaches where they will feel welcome; the amenities that are available at different beaches, such as the fire rings at Dockweiler; and the communities closest to each of these beaches, which influences who comes to the beach; as well as historical patterns of visitation and discrimination at different beaches.

To face the next generation of access challenges, we have to understand these patterns. We also need to understand that while coastal access is important and guaranteed for all by the Coastal Act, not everyone has the same needs and faces the same challenges accessing the beach. Through our statewide poll and beach surveys we found that identifying some of the various factors that affect different kinds of beachgoers can help us think through strategies to address these needs and challenges.

Young people, 18 to 24 years old, are more likely to come to the beach alone to swim or wade. Public transportation is more important to them. And they are concerned about cost, particularly the cost of overnight accommodations at the coast.

Families with adults 35 to 44 years old tend to come in larger groups. They want a place for their children to play. And they are more likely to stay in a hotel if they stay overnight on the coast. They are more concerned about the availability of affordable parking adjacent to the beach and the cost of overnight accommodations.

Latino beachgoers are more likely to be millennial parents with children who are seeking a place for their children to play. They come in larger groups. Amenities such as parking, restrooms, and trash cans are more important to them. And they like to see lifeguards on duty. They are concerned about the cost of parking and overnight accommodations and the lack of public transportation options for getting to the beach.

Older beachgoers, over 75 years old, are more likely to come to the beach alone or with one other person. They come to walk on the beach. They want



hapakang

Follow

Since I was a kid, I've appreciated the sense of freedom playing on the beach, the ability to wander, and become immersed in the ocean ecosystem...



zboycontreras
Venice Skatepark

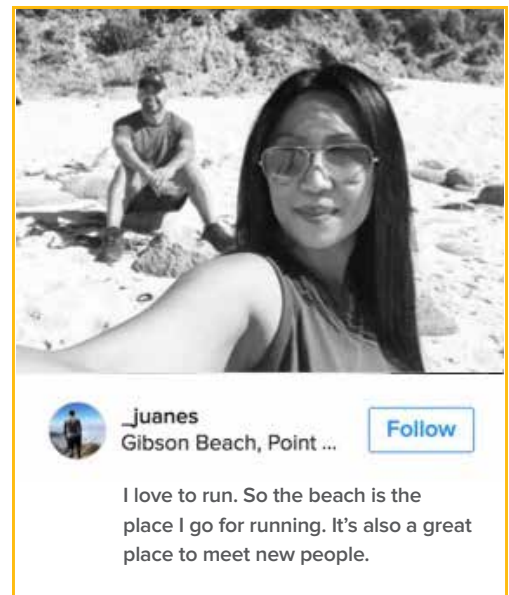
Follow

A lot of people think a perfect beach is one in commercials with two people in the middle of nowhere on lounge chairs. But that's just a vacation. The perfect beach is one you can go to every day and there are lots of people there and it's alive.

parking nearby and are concerned about the lack of public transportation. Cost is a concern for them. They spend less time each day on the beach, and visit less often, but their overnight stays are longer.

Beach visitors who travel longer distances to the coast come less often. And they tend to be concerned about cost, particularly the cost of overnight accommodations, as they may want to stay overnight.

Three out of four California voters—77 percent—visit the coast at least once a year, and many visit more often.



The Cost and Value of Visiting the Coast

In order to better understand the key components that factor into the cost of visiting the coast, we examined the overall value and cost of visits for beachgoers in our surveys, as well as their willingness to pay for parking and lodging.

The availability and cost of parking are seen as a problem by 78 percent of California voters. And in our beach intercept surveys we found that most visitors said nearby parking is essential. In our statewide poll and beach surveys, we asked people about their “willingness to pay” for parking. We found that the median amount that people said they are willing to pay for parking for a day at the beach is \$8.75. Younger people are willing to pay more than older people. Households with children are willing to pay more than those without children. And households with higher incomes are willing to pay more on average, though very few if any are willing to pay more than \$15 per day for parking.

It is important to note that “willingness to pay” findings reflect people’s stated preferences and not their actual behavior. We know that many of the respondents to our beach surveys in Ventura, Los Angeles, and Orange Counties often paid significantly more than \$8.75 for parking based on the actual current cost of nearby parking. So how do we interpret this kind of data? It is useful to know that the cost of parking is perceived as an important barrier to access to the beach. When we look at the value of a daytrip to the beach, we will see why people are so sensitive to the cost of parking.

The cost of overnight lodging on the coast is likely to be an even more important barrier to access, particularly for visitors from inland areas of the state. In our statewide poll, we found that, on average, California voters stated that they were willing to pay \$117.65 per night for lodging on the coast. Visitors from coastal areas are willing to pay more on average than visitors from inland counties, although visitors from inland counties might be expected to have more need for overnight accommodations given travel distances to the coast. Latinos and African Americans were willing to pay less on

For many Californians, the cost of a trip is the biggest barrier to visiting the coast.



average to stay overnight at the beach. And households with children were willing to pay more, as were households with higher incomes.

These findings were corroborated by our beach surveys, although visitors who were surveyed on the beach said they were willing to pay slightly less for lodging. Beachgoers in households with California's median income of \$63,636 were willing to pay \$82 per night for overnight accommodations. Households with 80 percent of the median income, or \$50,908, which is a commonly used definition of "disadvantaged households" in California policy and law, were willing to pay \$78 for overnight accommodations. And Latino households were willing to pay on average \$16 less than other households in the survey. One out of five people we surveyed at the beach were staying overnight on the coast. Just over half of them—54 percent—were staying in a hotel, motel, or short-term rental, 29 percent were staying with family or friends, 10 percent were camping or staying in an RV or boat, and 4 percent were staying in a second residence or long-term rental.

We reiterate that these "willingness to pay" findings are useful signals of people's preferences. And the cost of overnight accommodations on the coast is perceived as a problem by many Californians. But these results need to be interpreted in the context of other information about people's actual observed behavior.

Accordingly, we also used a "travel cost model," a standard tool used in economics, to estimate the demand for beach visits and the value of trips based on how much it cost people to travel to the coast. The travel cost model gives us more information about how much visitors actually value a visit to the coast. It is a useful approximate indicator of the value of a trip to the beach based on people's observed behavior.

In our surveys of actual beachgoers, we calculated that the average value of a daytrip to the beach based on the total economic demand for daytrips is \$36.74 and that the average cost of traveling to the beach and home again—not including the costs of parking, food, and activities—was \$22.09. The difference of \$14.65 is the "surplus value" generated by the average daytrip. If the average trip were to cost \$15 more, many visitors might elect not to visit the beach. This finding explains why beachgoers are sensitive to the cost of parking and day use fees, which can exceed \$15 in many locations.

For overnight visitors, we calculated that the average value of a multi-day trip to the coast was \$605.05, with roundtrip travel costing on average \$194.41—not including the price of overnight stays—leaving a surplus value of \$410.64. With overnight visitors staying an average of four nights on the coast, the surplus value left over for accommodations is just \$102.66 per day. Given the difficulty of finding a place to spend the night on the coast for that amount, it is easy to see why Californians might decide they cannot afford to visit.

While we should be cautious and avoid relying too much on any single number in these analyses, our findings clearly show that for the majority of visitors, a trip to the California coast is a close call in terms of cost. These numbers help illuminate why so many of the people we surveyed in our statewide poll and on beaches are concerned about the cost of visiting the coast. Our research strongly indicates that the principal factors affecting the cost of visiting the coast are distance from the coast, and thus the cost of getting to the coast, and the cost of overnight accommodations and parking. Individual factors, such as income, age, and whether a family is traveling with children are important, too, in shaping whether and how often Californians visit the coast.

We need to ensure that these most democratic of public spaces are equally accessible to everyone, now and in the future.

Conclusion

The California coast and beaches are among our state's most important democratic spaces. Despite our differences, we all share a love of the coast and many of the same desires and reasons for coming to the beach. Under the Coastal Act, our beaches are open to all of us under the law. We need to make sure they are also equally accessible to everyone, now and in the future.

Many different players will need to come together to address today's coastal access challenges. Local transportation authorities control most public transportation on the coast. Parking is managed by a variety of agencies, from local cities,

counties and other agencies, to regional, state, and even federal entities. A variety of park agencies as well as nonprofit community organizations provide coastal access opportunities through recreational programs, especially for youth. And while State Parks manages campgrounds and cabins along the coast, much affordable lodging is provided by the private sector. Our current and future coastal access challenges cannot be solved by the California Coastal Commission, State Coastal Conservancy, and State Parks alone, although they and the governor and legislature can provide leadership that will be essential for success.

Recommendations

To address the next generation of challenges to providing coastal access for all, we offer the following recommendations:

➤ **Focus legislative and executive branch attention on the coast.** Today's coastal access challenges are complicated. They will not be met without sustained, focused attention from the California Legislature and the executive branch of state government. Most importantly, California's leaders should understand that the coast is home to some of California's most valued public parks and open spaces—including the beach itself—and that millions of Californians of all backgrounds visit the coast each year, many from hours away. Updated and enhanced policies and funding are likely to be important strategies for improving coastal access. For example, California could allocate increased funding to public transportation to beaches and coastal parks, as well as to development and improvement of affordable overnight accommodations and recreational facilities. California could also develop and support grant programs that help provide lower-income and middle-class families with outdoor recreational and educational opportunities along the coast. Such solutions could stand alone, or they could be integrated into broader measures designed to enhance California's parks, transportation, and public health. Finally, California should ensure that coastal public access programs at agencies such as the Coastal Commission and Coastal Conservancy have sufficient staffing and resources to collect needed data about coastal users, develop and implement strategies to meet emerging public needs, and support local and nonprofit efforts to enhance access. Leadership is also important for coastal access: for example, new appointees to the Coastal Commission and other agencies with coastal management responsibilities should clearly understand California's demographic changes and evolving access challenges, as

well as California's legal requirement to maximize public access to the coast for all. Finally, the Commission and Conservancy, despite their dedicated and often successful efforts, cannot do this alone. Other partners, such as the State Lands Commission and State Parks (managers of a third of California's coastline), local governments, the private sector, nonprofits, and philanthropies, will also have important roles to play. A wide range of partners should be encouraged and supported to take part in programs that protect and improve access to the coast.

➤ **Change the narrative of coastal access.** For the first forty years of the Coastal Act, ensuring coastal access has been interpreted by many to mean providing direct physical access to and along California's publicly owned tidelands and beaches. Physical impediments to direct access remain, with some wealthy landowners illegally blocking the public from getting to the beach. Accordingly, the Coastal Commission and other agencies with coastal management responsibilities must remain vigilant in protecting existing and, where possible, opening new public accessways to the beach. At the same time, more attention needs to be paid to providing adequate public transportation to the coast, increasing the availability of outdoor education and recreation opportunities, particularly for young people who have not experienced the coast, and the protection and provision of affordable recreational opportunities and overnight accommodations that meet the needs of lower-income and middle class families. This next generation of challenges will be more complex and require collaboration with many other players, from leaders in coastal and inland communities, to the private sector, government agencies, nonprofits, and philanthropies, as well as the governor and legislators. The Coastal Commission and Conservancy should focus communication efforts on telling that story and on building effective partnerships in the coming years.

➤ **Protect and increase the supply of lower-cost overnight accommodations on the coast.** Solving this barrier is



key to providing access to the coast for many Californians. It cannot be solved by the Coastal Commission and Conservancy alone, but they can and should lead the effort. The Coastal Commission is embarking on an initiative to develop standards and policies for maintaining the existing supply of lower-cost overnight accommodations on the coast. With the Conservancy as a non-regulatory partner, along with other key partners such as State Parks, local park and open space agencies, and local governments, the Commission can help to stop the decline in the supply of lower-cost accommodations and increase that supply over time. This goal should be made a high priority and given adequate support to succeed.

- **Enhance options for getting to the beach using public transportation.** Low-cost express buses to the beach from inland communities in the San Fernando Valley have long been popular on summer weekends in Los Angeles and may be a good model for other areas. The last quarter-mile to the beach is particularly crucial. People do not want to walk more than a few blocks when they get to the coast, especially if they are elderly visitors or families with small children loaded down with beach and picnic gear. Public transportation needs to get to the beach. If it does not, a stop-gap solution, such as a shuttle across the last stretch, will likely be necessary for people who take public transportation to the coast.
- **Recognize that adequate and affordable parking is understood by many Californians as a critical element of coastal access.** Parking on the California coast is perceived as a problem by a majority of people from every corner of the state. Visitors want to park no more than a few blocks from the beach. And the average amount that they say they are willing to pay for parking is under \$10 a day. At the same time, parking and day use fees can help to pay for needed amenities that enhance visitors' experiences along the coast. User fees are part of the revenue stream that supports parks in California. The Legislature could provide better policy guidance for the fees set by State Parks, and the Coastal Commission could work with other agencies on the coast to establish more predictability for visitors in different regions of the coast. Increasing predictability in parking and day use fees—and helping visitors understand what their fees pay for—could reduce uncertainty and

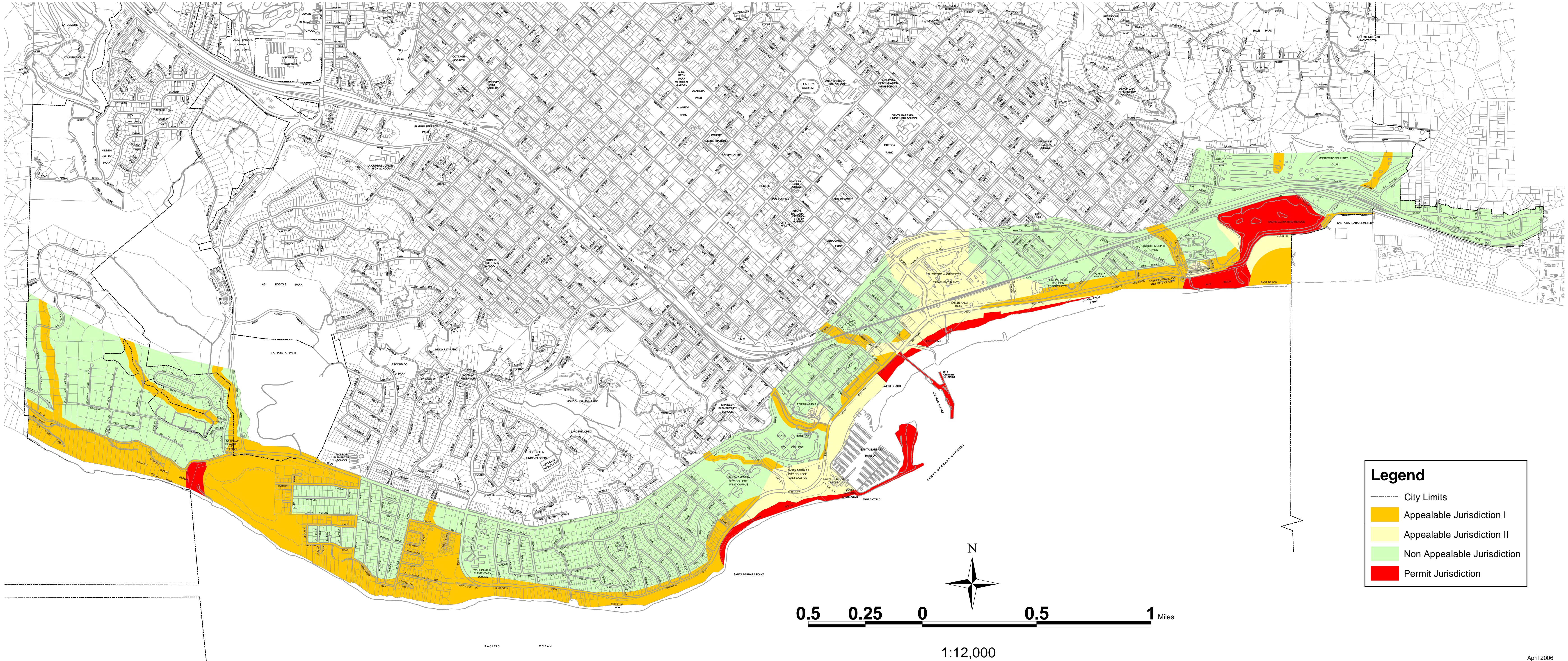
confusion and increase support for reasonable fees if visitors understand how they are contributing to maintaining and improving coastal access. California could also explore ways to make it easier for low-income families and individuals to get passes that provide free or low-cost use of parks and parking areas along the coast.

- **Support groups changing the culture of access to the coast.** Dozens of groups up and down the coast are working in a variety of creative ways to promote coastal access and deepen the ties of diverse Californians to our coast and beaches. Groups such as Brown Girl Surf in Northern California and Outdoor Outreach in San Diego bring young people to the beach, including youth who live near the coast, but have never been to the ocean. The Central Coast Alliance United for a Sustainable Economy (CAUSE) is organizing low-income communities to ensure that they have a voice in development decisions along the coast and enjoy the same kind of access to the coast and beaches as more wealthy communities. There are many other nonprofit groups and parks and recreation agencies doing similar work in coastal and inland communities, and more are emerging. These organizations depend on philanthropic and public funding to sustain their outdoor education and recreation programs and more support is needed to expand these efforts beyond coastal communities and counties to help inland communities, and particularly young people, gain access to and experience the California coast. The future of California's passion for protecting and enjoying our coast and ocean will depend on them.

This report was written by Jon Christensen, adjunct assistant professor at the Institute of the Environment and Sustainability at UCLA, and Philip King, associate professor of economics at San Francisco State University. The analysis was conducted by Christensen, King, and Craig Landry, professor of agricultural and applied economics at the University of Georgia. This report was designed by GreenInfo Network, with consulting by Bixler Communications. Cover image by Bywaters, CC BY/Flickr. This research was conducted under a grant from Resources Legacy Fund. For more information, contact jonchristensen@ioes.ucla.edu. For an interactive online version of this report, as well as data and sources, see ioes.ucla.edu/coastal-access.

Exhibit C

Exhibit C



This map is deemed reliable but is not guaranteed.
See Post-Certified LCP Map at the Planning Division
for the official version.

Coastal Zone

Local Coastal Plan

Exhibit D

Exhibit D

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:

https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

[.pdf](#)). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your [local district Coastal Commission office](#) for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an ‘all or none’ proposition. Rather, the Commission’s obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your [local district Coastal Commission office](#) for help in such efforts.

Sincerely,

A handwritten signature in black ink that reads "Steve Kinsey". The signature is written in a cursive, flowing style.

STEVE KINSEY, Chair
California Coastal Commission

Exhibit E

Exhibit E



City of Santa Barbara

Community Development Department

Memorandum

DATE: February 23, 2016

TO: Mayor and Councilmembers

FROM: George Buell, Community Development Director
Renee Brooke, AICP, City Planner

SUBJECT: Vacation Rental Permitting Process

In response to your request at the December 8, 2015 City Council meeting, staff is providing a summary of necessary steps to legally convert an existing residential unit to a vacation rental. As with any development proposal, it is important to understand that site-specific conditions often result in more or less applicable regulations, permits, and associated review, and this memorandum does not contemplate or address every possible scenario that may exist in the city.

Background

Since 1989, the city has placed a limitation on nonresidential growth in order to manage development and ensure the community continues to live within its resources. In March 2013, City Council adopted the Nonresidential Growth Management Program (Santa Barbara Municipal Code (SBMC) Chapter 28.85), which applies to "...the construction of new nonresidential floor area or the conversion of existing residential floor area to nonresidential use." The definition of a "Hotel" (SBMC §28.04.395) encompasses vacation rentals as they involve a building, group of buildings, or portion of a building occupied for overnight stay by individuals for less than 30 consecutive days. The conversion of an existing residence to a vacation rental is considered by the Planning Division to be a change of use from a residential use to a non-residential use and requires compliance with the Nonresidential Growth Management Program (GMP).

Discussion

The attached public handout provides initial guidance to applicants about the extent of discretionary review required for particular scenarios and lists general information applicable to *most* vacation rental conversion applications. The handout is intended to be a starting point for applicants. Due to many unique factors and site-specific limitations involved in converting existing residential units to vacation rentals, a Planner Consultation is required to provide more specific procedural information.

The remainder of this memorandum briefly summarizes each step in the critical path to convert an existing residential unit to a vacation rental. It is important to note that a proposal to construct a new vacation rental or hotel would be subject to a large majority of the same regulations.

Zoning Designation

Vacation rentals are allowed in all zones in which hotels are allowed: R-4, C-L, C-P, C-1, C-2, C-M, HRC-1, HRC-2, HRC-2/OC and M-1 Zones. If the subject property is not located in one of these zones, a vacation rental is not an allowed use and cannot be permitted.

Number of Units

As shown in the table "Planning Process for Conversion of Residential Unit to a Vacation Rental" of the attached handout, the number of existing units proposed for conversion is the most significant factor in determining the overall permitting process. Conversions of more than one unit on a site are subject to a Hotel Conversion Permit. The process to obtain such a permit is admittedly onerous and, since its adoption in 1979, the City has never received an application for, or issued, a Hotel Conversion Permit.

Amount of Floor Area¹

A proposal to convert one unit, less than 1,000 square feet in size, from a residential to a nonresidential use is excluded from the floor area limitations of the GMP and is simply reviewed and documented at a staff level. If no exterior changes are required, such a proposal *may* be able to proceed without discretionary review.

A proposal to convert one unit, between 1,000 and 3,000 square feet in size, from a residential to a nonresidential use is subject to the floor area limitations of the GMP and requires Development Plan approval at the applicable design review body. Any exterior changes required would be reviewed by the appropriate design review board.

A proposal to convert one unit, in excess of 3,000 square feet, from a residential to a nonresidential use is subject to the floor area limitations of the GMP and requires Development Plan approval at the Planning Commission. Any exterior changes required would be subject to approval by the appropriate design review board.

For any number of units on a site, if the total amount of floor area proposed for conversion exceeds the 1,000 square-foot Minor Addition allocated to all properties in the City or the 3,000 square-foot combined Minor and Small Additions allocated to properties in the Downtown Development Area, and the project site does not have adequate demolition credit for purposes of the GMP, nonresidential floor area must be transferred to the project site, from a sending site, pursuant to the requirements of SBMC Chapter 28.95 (Transfer of Existing Development Rights).

¹ All legal lots that existed as of December 6, 1989 can be allocated up to 1,000 square feet from the Minor Addition category of the GMP. Only legal lots that are located within the Downtown Development Area can apply for square footage (from 1,000 up to 3,000 square feet) from the Small Addition category of the GMP. These square footage amounts are cumulative as of December 6, 1989.

Project Site Location

A proposal to convert an existing residential unit to a nonresidential use is considered "development" under the Coastal Act. If the subject site is located within the Coastal Zone, the proposal will be subject to SBMC Chapter 28.44 (Coastal Overlay Zone) and require either a Coastal Exemption or a Coastal Development Permit.

Displacement of Residential Tenants

A proposal to convert one unit from a residential to a nonresidential use is subject to the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89). As required by the Ordinance, a sixty (60) day Notice of Intent must be provided to all eligible resident households prior to filing any application for conversion, and certification of displacement assistance (four times the median advertised rental rate or \$5,000, whichever is great) to all eligible tenants must be provided prior to the issuance of a permit.

Projects that involve conversion of more than one unit are subject to the Hotel Conversion Ordinance and must comply with similar Tenant Protection Provisions outlined in SBMC Chapter 28.88.

Parking Requirements

The parking requirement for a vacation rental is the same as that for hotels: one parking space per sleeping unit (SBMC §28.90.100.J.10). In the case of vacation rentals, a bedroom is considered a sleeping unit. For example, a three-bedroom residential unit would be required to provide three off-site parking spaces in order to operate as a vacation rental. Additional parking may be required if the project is located in the C-P Zone, S-D-2 Overlay Zone, or the Central Business District.

Furthermore, if a residential unit (or portion thereof) is converted to a vacation rental, that unit (or portion thereof) will no longer be eligible to be part of a Residential Permit Parking Program.

Required Setbacks

All structures on the project site must comply with the required setbacks for the zone. Conversion of an existing building that is nonconforming to setback(s) will require approval of a Modification to allow a change of use within the setback(s).

Other Applicable Regulations

Water Meters - A separate water meter may be required for vacation rentals, depending on the number and mix of uses on the site. Commercial rates will apply to water and sewer usage.

Building and Fire Code Compliance - The conversion of existing residential units to a vacation rental may require additional upgrades, permits, or review from the City Building and Safety Division and/or the Fire Department, including review for accessibility, proper exiting, and fire separation.

Storm Water Management Program (SWMP) – Proposals to convert existing residential units to a vacation rental that require discretionary review (design review, Staff Hearing Officer, or Planning Commission), must comply with the City's SWMP regulations.

Case Studies

The following three case studies are representative of a reasonable range of properties that may be ripe for conversion to vacation rental units and the processes required based on the site characteristics.

Study #1

Zoning Designation:	C-2 (General Commercial)
Number of Units:	One (single-family unit)
Amount of Floor Area:	1,700 square feet
Project Site Location:	Downtown
Displacement of Residential Tenants:	N/A – the unit was vacant upon project submittal
Parking Requirements:	2 bedrooms = 2 uncovered spaces required
Required Setbacks:	N/A – none required in C-2 Zone
Other Applicable Regulations:	SWMP Tier 2 (Basic BMP)
Discretionary Bodies:	Architectural Board of Review
Planning Fees Required:	\$2,855

In this scenario, because the site is located in the Downtown Development Area it is allocated up to 3,000 square feet of GMP nonresidential square footage. The request to convert a 1,700 square-foot single-family residence to a vacation rental requires ABR review to consider Development Plan approval and design review of exterior changes. The planning process is relatively straight-forward; the application was received by the City on November 23, 2015 and received Final Approval by the ABR on January 19, 2016. The project is currently in building permit plan check.

Study #2

Zoning Designation:	R-4 (Hotel-Motel-Multiple Family Residential)
Number of Units:	Three; only one proposed for conversion to vacation rental
Amount of Floor Area:	Approx. 1,700 square feet to be converted
Project Site Location:	Downtown
Displacement of Residential Tenants:	Yes – notice and moving expenses must be provided
Parking Requirements:	2 bedrooms = 2 uncovered spaces
Required Setbacks:	Front = 10'; Interior = 6'; Rear = 6' and 10' (upper floor)
Other Applicable Regulations:	SWMP compliance is unknown at this time
Discretionary Bodies:	Architectural Board of Review
Planning Fees Required:	\$2,855

In this scenario, because the site is located in the Downtown Development Area it is allocated up to 3,000 square feet of GMP nonresidential square footage. The request to convert a 1,700 square-foot unit to a vacation rental requires ABR review to consider Development Plan approval and design review of any exterior changes. The unit

proposed for conversion meets the required setbacks. Although a formal application has not yet been submitted, the planning process could be relatively straight-forward.

Study #3

Zoning Designation:	R-4 (Hotel-Motel-Multiple Family Residential) / SD-3 (Coastal Zone)
Number of Units:	Two (Duplex)
Amount of Floor Area:	Approx. 4,100 square feet to be converted
Project Site Location:	West Beach
Displacement of Residential Tenants:	Yes – notice and moving expenses must be provided
Parking Requirements:	5 bedrooms = 5 uncovered spaces required
Required Setbacks:	Front = 15'; Interior = 10'; Rear = 6' and 10' (upper floors)
Other Applicable Regulations:	PRT required; Hotel Conversion Permit; Development Plan; Transfer of Existing Development Rights (TEDR); Coastal Review; SWMP Tier 3; Setback Modification; Potential Historic Resources List
Discretionary Bodies:	Planning Commission and Historic Landmarks Commission
Planning Fees Required:	Approximately \$28,000 - \$38,000 (depending on actual amount of square footage converted)

In this scenario, because the site is located in the Downtown Development Area it is allocated up to 3,000 square feet of GMP nonresidential square footage. The request to convert approximately 4,100 square feet of existing residential use to a nonresidential use requires Planning Commission review of a Transfer of Existing Development Rights (TEDR) to obtain the additional 1,100 square feet of nonresidential floor area from another site, and Development Plan approval. Pursuant to the SBMC, TEDRs and Development Plans of this size require a Pre-Application Review Team submittal prior to submittal of a formal application for 30-day review. Because the scenario involves the conversion of more than one unit on a lot, compliance with the requirements of a Hotel Conversion Permit (including tenant noticing and payment of moving expenses) and related Planning Commission review is also required. The Historic Landmarks Commission will review any exterior changes in this case because the building is listed on the City's Potential Historic Structures List.

The existing three-story structure encroaches into the interior setback. A request to change the use of a structure nonconforming to setbacks requires Modification approval. Because the site is located in the Coastal Zone, some level of coastal review will be required. A determination as to whether the proposal qualifies for a Coastal Exemption rather than a Coastal Development Permit cannot be made until at least a PRT application is submitted, so that staff fully understand the scope of the proposal. Given the number and complexity of application types required for this scope of work, it could take 12 to 18 months to obtain the necessary land use entitlements.



City of Santa Barbara

VACATION RENTALS

Please be advised that the following information is subject to change.

The conversion of an existing residence to a vacation rental is considered by the Planning Division to be a change-of-use from a *residential use* to a *non-residential use* and will require compliance with the following standards described below. A "vacation rental" is a hotel when any building, group of buildings, or portion of a building is occupied for overnight stay by individuals for less than 30 consecutive days (See the definition of "hotel" at SBMC §28.04.395).

Please refer to the table below and general standards on page 2 for relevant requirements. A project **must comply with all general standards** in addition to the project components to qualify the level of review outlined below. Please refer to the Planning Division handouts at www.SantaBarbaraCA.gov/PlanningHandouts for submittal requirements. Additional information may be found on the Vacation Rental webpage.

Planner Consultations or a Pre-Application Review Team (PRT) submittal are highly recommended for projects subject to Staff Hearing Officer or Planning Commission review.

Planning Process for Conversion of Residential Unit to a Vacation Rental		
Number of Existing Residential Units to be Converted	Project Components to Determine Level of Review	Highest Level of Review*
1 Residential Unit	<ul style="list-style-type: none"> No exterior changes Converting less than 1,000 s.f.** to the non-residential use (excluding garages and carports) 	Staff
	<ul style="list-style-type: none"> Exterior changes proposed <u>or</u> Converting between 1,000 - 3,000 s.f.** to a non-residential use (excluding garages and carports) 	Architectural Board of Review or Historic Landmarks Commission (Design Review Body)
	<ul style="list-style-type: none"> Project located in the Coastal Zone (which requires a Coastal Development Permit) <u>and</u> Converting less than 3,000 s.f.** to the non-residential use (excluding garages and carports) Modification required 	Staff Hearing Officer (In addition to design review if required and if no other approval is required by the Planning Commission)
	<ul style="list-style-type: none"> Converting more than 3,000 s.f.** to the non-residential use (excluding garages and carports) 	Planning Commission (In addition to design review if required)
> 1 Residential Unit	<ul style="list-style-type: none"> Hotel Conversion Permit required*** 	Planning Commission (In addition to design review if required)

*The level of review may vary from this chart depending on additional site specific information or constraints.

**Please refer to the Nonresidential Growth Management Program Ordinance SBMC §28.85 for more information on limitations.

***Planner Consultation recommended prior to any formal submittal.

The following are General Standards that apply to all vacation rental applications.

GENERAL INFORMATION

1. **ALLOWED ZONES.** Vacation rentals are allowed in all zones in which hotels are allowed: R-4, C-L, C-P, C-1, C-2, C-M, HRC-1, HRC-2, HRC-2/OC and M-1 Zones. If the property is not located in one of these zones, a vacation rental is not an allowed use in that zone and cannot be permitted.
2. **BUSINESS LICENSE.** The City of Santa Barbara requires that every person, firm, corporation, partnership or other business organization conducting business within the City obtain a business license. Vacation rental operators must have a business license and pay transient occupancy taxes (TOT). For additional information see <http://www.santabarbaraca.gov/business/license/tot/>
3. **GROWTH MANAGEMENT PLAN MINOR AND SMALL ADDITIONS.** All legal lots that existed as of December 6, 1989 can be allocated up to 1,000 square feet from the Minor Addition category. Only legal lots that are located within the **Downtown Development Area** can apply for square footage from the Small Addition category for 1,000 up to 3,000 square feet.
4. **PARKING.** The parking requirement for a vacation rental is the same as that for hotels: one parking space per sleeping unit (SBMC §28.90.100.J.10). In the case of vacation rentals, a bedroom is considered a sleeping unit. Additional parking may be required if the project is located in the C-P Zone, S-D-2 Overlay Zone, or the Central Business District. Contact Planning Staff for assistance with this determination.
5. **RESIDENTIAL PERMIT PARKING PROGRAM.** If a residential unit (or portion thereof) is converted to a vacation rental, that unit (or portion thereof) will no longer be eligible to be part of the Residential Permit Parking Program.
6. **SETBACKS.** Buildings must comply with the required setbacks. Non-conforming buildings require approval of zoning modification(s) for a change-of-use in the setbacks.
7. **TENANT DISPLACEMENT ASSISTANCE ORDINANCE (SBMC §28.89).** Proposals that are limited to the conversion of only one existing residential unit shall comply with the provisions in the Tenant Displacement Assistance Ordinance (TDAO). A sixty (60) day Notice of Intent must be provided prior to filing any application and certification of displacement assistance to all eligible resident households must be provided prior to the issuance of a permit.

Projects that involve more than one unit are subject to the Hotel Conversion Ordinance and must comply with the Tenant Protection Provisions outlined in SBMC §28.88.
8. **WATER USAGE.** A separate water meter may be required for vacation rentals. Commercial rates will apply to water and sewer usage. Please contact Water Resources Staff for more information.
9. **OTHER DEPARTMENTAL REVIEW.** The conversion of existing residential units to a vacation rental may require additional upgrades, permits, or review from the City Building and Safety Division, the Fire Department, or Public Works Department. Review all proposals with the Building and Safety Division and Fire Department for any code related questions and requirements, such as fire partitions between sleeping units.
10. **ADDITIONAL LIMITATIONS.** Be advised that additional limitations may apply related to project location and development history. Please review all records, documents, agreements, associated with your existing site.

DISCRETIONARY REVIEW INFORMATION

1. **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).** CEQA may apply to your project. Projects subject to design review, Staff Hearing Officer or Planning Commission review are discretionary projects subject to CEQA.
2. **COASTAL ZONE.** Projects located in the Coastal Zone (SD-3 Zone) will require a Coastal Exemption or a Coastal Development Permit and be subject to those submittal requirements. Contact Planning Staff for assistance with this determination.
3. **DESIGN REVIEW.** Design review approval by either the Architectural Board of Review (ABR) or the Historic Landmarks Commission (HLC) is required for any exterior alterations to existing or proposed non-residential buildings. *Examples include new parking spaces, changes to doors and windows, landscape, building colors, etc.*
4. **DEVELOPMENT PLAN APPROVAL.** The conversion of residential units to vacation rentals requires the allocation of non-residential square footage as described in SBMC §28.85. The cumulative allocation of more than 1,000 square feet requires Development Plan Approval as outlined in SBMC §28.85. Please refer to the Nonresidential Growth Management Program (GMP) – Common Questions handout for additional guidance with the applicability of the Nonresidential Growth Management Program (GMP). Be advised that additional limitations may apply related to project location and development history. Projects which require allocation in excess of what is allowed on the site, will need to obtain additional square footage allocation as outlined in Transfer of Existing Development Rights (TEDR) SBMC §28.95.
5. **HOTEL CONVERSION PERMIT.** All projects proposing to convert two or more units are subject to compliance with the Hotel Conversion Ordinance SBMC §28.88 and require the issuance of a Hotel Conversion Permit. Please refer to the ordinance for additional standards, application, and submittal requirements.
6. **MAILED NOTICING REQUIREMENTS.** Ministerial permits do not require mailed noticing to neighbors. A 10-day notice will be provided to neighbors if required under SBMC §22.68.040.A or SBMC §22.22.132.A, for projects subject to design review. A 10-day notice will be provided to the neighbors for all projects subject to review by the Staff Hearing Officer or Planning Commission review and approval.
7. **STAFF HEARING OFFICER OR PLANNING COMMISSION APPROVALS.** Refer to the Development Application Review Team (DART) Informational and Submittal Packets for information on the process and submittal requirements. Refer to the Modification and Performance Standard Permit Submittal Process handout for projects which only require a zoning modification. Once a complete application is submitted, the project will be placed on agenda to be reviewed by either the Planning Commission or Staff Hearing Officer. *Note: If the project consists of a zoning modification only, a pre-consultation is required prior to submittal.*
8. **STORM WATER MANAGEMENT PROGRAM (SWMP).** Discretionary projects must comply with Storm Water Management Program requirements, if applicable.

Exhibit F

Exhibit F



City of Santa Barbara

VACATION RENTALS

Please be advised that the following information is subject to change.

The conversion of an existing residence to a vacation rental is considered by the Planning Division to be a change-of-use from a *residential use* to a *non-residential use* and will require compliance with the following standards described below. A “vacation rental” is a hotel when any building, group of buildings, or portion of a building is occupied for overnight stay by individuals for less than 30 consecutive days (See the definition of “hotel” at [SBMC §28.04.395](#)).

Please refer to the table below **and** general standards on page 2 for relevant requirements. A project **must comply with all general standards** in addition to the project components to qualify the level of review outlined below. Please refer to the Planning Division handouts at www.SantaBarbaraCA.gov/PlanningHandouts for submittal requirements. Additional information may be found on the [Vacation Rental](#) webpage.

Planner Consultations or a Pre-Application Review Team (PRT) submittal are highly recommended for projects subject to Staff Hearing Officer or Planning Commission review.

Planning Process for Conversion of Residential Unit to a Vacation Rental		
Number of Existing Residential Units to be Converted	Project Components to Determine Level of Review	Highest Level of Review*
1 Residential Unit	<ul style="list-style-type: none">No exterior changesConverting less than 1,000 s.f.** to the non-residential use (excluding garages and carports)	Staff
	<ul style="list-style-type: none">Exterior changes proposed or Converting between 1,000 - 3,000 s.f.** to a non-residential use (excluding garages and carports)	Architectural Board of Review or Historic Landmarks Commission (<i>Design Review Body</i>)
	<ul style="list-style-type: none">Project located in the Coastal Zone (which requires a Coastal Development Permit) and Converting less than 3,000 s.f.** to the non-residential use (excluding garages and carports)Modification required	Staff Hearing Officer (<i>In addition to design review if required and if no other approval is required by the Planning Commission</i>)
	<ul style="list-style-type: none">Converting more than 3,000 s.f.** to the non-residential use (excluding garages and carports)	Planning Commission (<i>In addition to design review if required</i>)
> 1 Residential Unit	<ul style="list-style-type: none">Hotel Conversion Permit required***	Planning Commission (<i>In addition to design review if required</i>)

*The level of review may vary from this chart depending on additional site specific information or constraints.

**Please refer to the Nonresidential Growth Management Program Ordinance [SBMC §28.85](#) for more information on limitations.

***Planner Consultation recommended prior to any formal submittal.

The following are General Standards that apply to all vacation rental applications.

GENERAL INFORMATION

1. **ALLOWED ZONES.** Vacation rentals are allowed in all zones in which hotels are allowed: R-4, C-L, C-P, C-1, C-2, C-M, HRC-1, HRC-2, HRC-2/OC and M-1 Zones. If the property is not located in one of these zones, a vacation rental is not an allowed use in that zone and cannot be permitted.
2. **BUSINESS LICENSE.** The City of Santa Barbara requires that every person, firm, corporation, partnership or other business organization conducting business within the City obtain a business license. Vacation rental operators must have a business license and pay transient occupancy taxes (TOT). For additional information see <http://www.santabarbaraca.gov/business/license/tot/>
3. **GROWTH MANAGEMENT PLAN MINOR AND SMALL ADDITIONS.** All legal lots that existed as of December 6, 1989 can be allocated up to 1,000 square feet from the Minor Addition category. Only legal lots that are located within the **Downtown Development Area** can apply for square footage from the Small Addition category for 1,000 up to 3,000 square feet.
4. **PARKING.** The parking requirement for a vacation rental is the same as that for hotels: one parking space per sleeping unit ([SBMC §28.90.100.J.10](#)). In the case of vacation rentals, a bedroom is considered a sleeping unit. Additional parking may be required if the project is located in the C-P Zone, S-D-2 Overlay Zone, or the Central Business District. Contact Planning Staff for assistance with this determination.
5. **RESIDENTIAL PERMIT PARKING PROGRAM.** If a residential unit (or portion thereof) is converted to a vacation rental, that unit (or portion thereof) will no longer be eligible to be part of the Residential Permit Parking Program.
6. **SETBACKS.** Buildings must comply with the required setbacks. Non-conforming buildings require approval of zoning modification(s) for a change-of-use in the setbacks.
7. **TENANT DISPLACEMENT ASSISTANCE ORDINANCE (SBMC §28.89).** Proposals that are limited to the conversion of only one existing residential unit shall comply with the provisions in the Tenant Displacement Assistance Ordinance (TDAO). A sixty (60) day Notice of Intent must be provided prior to filing any application and certification of displacement assistance to all eligible resident households must be provided prior to the issuance of a permit.

Projects that involve more than one unit are subject to the Hotel Conversion Ordinance and must comply with the Tenant Protection Provisions outlined in [SBMC §28.88](#).
8. **WATER USAGE.** A separate water meter may be required for vacation rentals. Commercial rates will apply to water and sewer usage. Please contact Water Resources Staff for more information.
9. **OTHER DEPARTMENTAL REVIEW.** The conversion of existing residential units to a vacation rental may require additional upgrades, permits, or review from the City Building and Safety Division, the Fire Department, or Public Works Department. Review all proposals with the Building and Safety Division and Fire Department for any code related questions and requirements, such as fire partitions between sleeping units.
10. **ADDITIONAL LIMITATIONS.** Be advised that additional limitations may apply related to project location and development history. Please review all records, documents, agreements, associated with your existing site.

DISCRETIONARY REVIEW INFORMATION

1. **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).** CEQA may apply to your project. Projects subject to design review, Staff Hearing Officer or Planning Commission review are discretionary projects subject to CEQA.
2. **COASTAL ZONE.** Projects located in the Coastal Zone (SD-3 Zone) will require a [Coastal Exemption](#) or a [Coastal Development Permit](#) and be subject to those submittal requirements. Contact Planning Staff for assistance with this determination.
3. **DESIGN REVIEW.** Design review approval by either the Architectural Board of Review (ABR) or the Historic Landmarks Commission (HLC) is required for any exterior alterations to existing or proposed non-residential buildings. *Examples include new parking spaces, changes to doors and windows, landscape, building colors, etc.*
4. **DEVELOPMENT PLAN APPROVAL.** The conversion of residential units to vacation rentals requires the allocation of non-residential square footage as described in [SBMC §28.85](#). The cumulative allocation of more than 1,000 square feet requires Development Plan Approval as outlined in [SBMC §28.85](#). Please refer to the [Nonresidential Growth Management Program \(GMP\) – Common Questions](#) handout for additional guidance with the applicability of the Nonresidential Growth Management Program (GMP). Be advised that additional limitations may apply related to project location and development history. Projects which require allocation in excess of what is allowed on the site, will need to obtain additional square footage allocation as outlined in [Transfer of Existing Development Rights \(TEDR\) SBMC §28.95](#).
5. **HOTEL CONVERSION PERMIT.** All projects proposing to convert two or more units are subject to compliance with the [Hotel Conversion Ordinance SBMC §28.88](#) and require the issuance of a Hotel Conversion Permit. Please refer to the ordinance for additional standards, application, and submittal requirements.
6. **MAILED NOTICING REQUIREMENTS.** Ministerial permits do not require mailed noticing to neighbors. A 10-day notice will be provided to neighbors if required under [SBMC §22.68.040.A](#) or [SBMC §22.22.132.A](#) for projects subject to design review. A 10-day notice will be provided to the neighbors for all projects subject to review by the Staff Hearing Officer or Planning Commission review and approval.
7. **STAFF HEARING OFFICER OR PLANNING COMMISSION APPROVALS.** Refer to the [Development Application Review Team \(DART\) Informational and Submittal Packets](#) for information on the process and submittal requirements. Refer to the [Modification and Performance Standard Permit Submittal Process](#) handout for projects which only require a zoning modification. Once a complete application is submitted, the project will be placed on agenda to be reviewed by either the Planning Commission or Staff Hearing Officer. ***Note:** If the project consists of a zoning modification only, a pre-consultation is required prior to submittal.*
8. **STORM WATER MANAGEMENT PROGRAM (SWMP).** Discretionary projects must comply with Storm Water Management Program requirements, if applicable.

Exhibit G

Exhibit G



City of Santa Barbara

COASTAL DEVELOPMENT PERMIT SUBMITTAL PACKET

- ☐ Coastal Development Permit Application
- ☐ Coastal Development Permit Tenant Notification Instructions
- ☐ Coastal Development Permit Tenant Notification Affidavit

Note:

- **For additional submittal requirements**, please obtain the following: (1) [Master Application](#), (2) [Development Application Review Team \(DART\) Submittal Packet](#), (3) [Planning Commission & Staff Hearing Officer Submittal Cover Sheet](#), and (4) [On-Site Posting Instructions](#)
- **Questions** regarding application submittal content and process can be answered at the Planning and Zoning counter at 630 Garden Street, or (805) 564-5578.
- **Research:** It is important that you research the project site prior to submitting an application. Resources such as the Santa Barbara Municipal Code (SBMC), handouts, guidelines, Street and Planning Files (a.k.a. LDT Record Archives), parcel and case information can be found online via links on our “Planning Central” page at <http://www.santabarbaraca.gov/Resident/planning>.
 - **Zoning Ordinance:** When developing your proposal, **ALWAYS** refer to the Zoning Ordinance (Title 28 of the SBMC) for the most complete information. As a rule of thumb we recommend that the following sections be reviewed carefully for additional information: Definitions (SBMC §28.04), General Provisions (SBMC §28.87), and the Automobile Parking Requirements (SBMC §28.90). The Zoning Ordinance may be purchased at the City Clerk’s Office at City Hall (735 Anacapa Street, or (805) 564-5309).
 - **Records:** The history of the property needs to be researched. Street and Planning files, and archived plans are located at the Records and Archives counter (630 Garden Street or (805) 564-5554). Please note that requests to view archived plans are on an appointment basis. Street and Planning files can be viewed online via the [“Planning Central”](#) webpage.
 - **Unpermitted Work:** Please note that outstanding violations identified in pending enforcement cases and Zoning Information Reports must be addressed as part of your application.
- **Please be advised** that all submittal materials (including plans) are subject to the **Public Records Act** and may be reproduced for the public without agent/owner authorization.

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City of Santa Barbara

COASTAL DEVELOPMENT PERMIT APPLICATION

This section is to be filled out by Planning Division Staff Only

MST#: _____ CDP# _____

ENVIRONMENTAL DETERMINATION (IF NECESSARY): _____

CONCURRENT APPLICATION(S): ☐ ABR/SFDB ☐ HLC ☐ PC/SHO ☐ PRT ☐ BP

APPLICATION REVIEWED BY: _____ DATE: _____

NOTE: A Coastal Development Permit does not preclude any other City approvals or permits which would normally be required. The applicant must submit, in addition to this form, a Master Application as well as any other materials normally required by other review bodies or departments within the City of Santa Barbara

I. TYPE OF APPLICATION

- ☐ LCP Exclusion
- ☐ Coastal Development Permit:
1. Appealable
 2. Non-Appealable
 3. California Coastal Commission (State) Permit

II. PROJECT OWNER/APPLICANT AND LOCATION

Owner: _____ Phone No: _____

Address: _____

E-mail Address: _____

Applicant: _____ Phone No: _____

Address: _____

E-mail Address: _____

Project Location: _____

Parcel No(s): _____

III. PROJECT INFORMATION:

THE FOLLOWING INFORMATION IS REQUIRED FOR A COASTAL DEVELOPMENT PERMIT APPLICATION TO BE CONSIDERED COMPLETE:

PLEASE NOTE:

*Where questions do not apply to your project, indicate "NOT APPLICABLE" or "N/A".

*Within thirty (30) days of receipt of an application, the Planning Division will inform the applicant in writing if the application is complete, or not, and what items must be submitted. Processing of the application will not begin until it is complete.

A. TYPE OF PROJECT:

- ☐ New _____ Sq. Ft.
- ☐ Addition _____ Sq. Ft.
- ☐ Remodel _____ Sq. Ft.
- ☐ Repair _____ Sq. Ft.
- ☐ Demolition _____ Sq. Ft.
- ☐ Removal _____ Sq. Ft.
- ☐ Grading Cut _____ Cu. Yds. Fill _____ Cu. Yds.
- ☐ Paving _____ Amount
- ☐ Fences/Walls Height _____ and Length _____
- ☐ Retaining Walls Height _____ and Length _____
- ☐ Change of Use From _____ To _____
- ☐ Other _____

B. RESIDENTIAL:

	LOT AREA	NO. OF BLDGS.	BLDG. SQ. FT. ¹	DEMO'D BLDG. SQ. FT.	STORIES/ BLDG. HEIGHT	UNITS	BEDROOMS PER UNIT
EXISTING							
PROPOSED							

¹ Include the square footage of **all buildings** on the project site including accessory structures and garages.

C. NON-RESIDENTIAL:

	LOT AREA	NO. OF BLDGS.	BLDG. SQ. FT.	DEMO'D BLDG. SQ.FT.	STORIES/BLDG HEIGHT
EXISTING					
PROPOSED					

D. DESCRIBE THE EXISTING CONDITION OF THE PROPERTY. INCLUDE NUMBER, SIZE, AND USE OF ANY EXISTING BUILDINGS, AND EXISTING NUMBER OF UNITS:

E. DESCRIBE THE PROPOSED DEVELOPMENT. INCLUDE SQUARE FOOTAGE, INCIDENTAL IMPROVEMENTS SUCH AS SEPTIC TANKS, WATER WELLS, ROADS, DRIVEWAYS, ACCESSORY BUILDINGS, FENCES, GRADING, VEGETATION REMOVAL, ETC. ALSO, INCLUDE WHETHER ANY EXISTING BUILDING(S) WILL BE DEMOLISHED OR REMOVED:

F. NUMBER OF PARKING SPACES:

	REQUIRED	EXISTING	PROPOSED	TOTAL
COVERED				
UNCOVERED				
BICYCLE PARKING				

G. ADDITIONAL INFORMATION:

1. Has any application for development on this site been submitted previously to the City of Santa Barbara, California Coastal Zone Conservation Commission or Coastal Commission?

☐ YES ☐ NO

If yes, state previous Application Number(s): _____

2. Are utility extensions for the following needed to serve the project?

Water ☐ YES ☐ NO

Gas ☐ YES ☐ NO

Electric ☐ YES ☐ NO

Sewer ☐ YES ☐ NO

Telephone ☐ YES ☐ NO

Would any of these extensions be above ground? ☐ YES ☐ NO

If yes, explain below:

3. If the development is between the first public road and the sea, is public access to the shoreline and along the coast currently available near the site?

☐ YES ☐ NO

If yes, indicate the location of the nearby access, including the distance from the project site:

4. Will any aspect of the project (i.e. construction, grading, landscaping, vegetation removal, fences, interior remodel, window/door changes, etc.) occur within 50 feet of a coastal bluff or within the 75-year seacliff retreat line?

☐ YES ☐ NO

If yes, explain below and include the distance from the edge of the coastal bluff:

5. Does the project include the removal of trees, hedges, shrubs or other vegetation?

☐ YES ☐ NO

If yes, indicate the number, location, type and size of trees and the type and area of other vegetation to be removed:

6. Does the development involve diking, filling, dredging or placing structures in open coastal waters, wetlands, estuaries, lakes, or creeks?

☐ YES ☐ NO

If yes, explain. (Include amount of material to be dredged or filled and the location of the dredged material disposal site).

Has the U.S. Army Corps of Engineers Permit been applied for? ☐ YES ☐ NO

7. Will the development extend into or adjoin any beach, tidelands, submerged lands or public trust lands?

☐ YES* ☐ NO

8. Is the proposed development in or near (within 100 feet):

- Sensitive habitat areas? ☐ YES* ☐ NO
- 100-year floodplain? ☐ YES* ☐ NO
- Park or recreation area? ☐ YES* ☐ NO

9. Is the proposed development visible from:

- U.S. Highway 101 or other scenic routes? ☐ YES* ☐ NO
- Park, beach or recreation areas? ☐ YES* ☐ NO
- Harbor area? ☐ YES* ☐ NO

10. Does the site contain any:

- Historic resources? ☐ YES* ☐ NO
- Archaeological resources? ☐ YES* ☐ NO

***NOTE:** If yes to items 8 through 10 above, please explain on a separate sheet or below.

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City of Santa Barbara

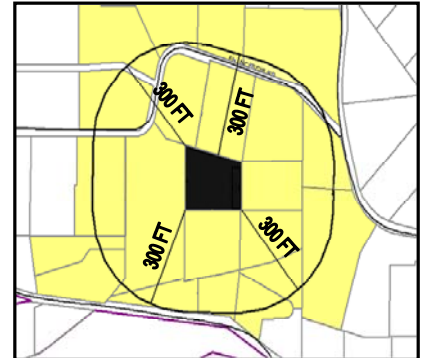
COASTAL DEVELOPMENT PERMIT TENANT NOTIFICATION INSTRUCTIONS

If a project involves a coastal development permit, notification is also required for residential tenants in addition to the standard noticing requirements for the project. Two (2) sets labels are required for residential tenants residing on parcels within 100 feet of the property lines of the subject parcel(s).

Residential Tenant mailing labels must be provided by the applicant using the instructions outlined below. **The City does not provide tenant mailing labels.**

Instructions

1. City Staff can provide a map indicating the parcels located within the required noticing distance for the project. Or, if preferred, applicants can create a noticing distance map using the City's online map at <http://www.santabarbaraca.gov/Government/GIS/>.
 - a. To determine the parcels to be noticed, locate the subject parcel on the interactive map either by typing in the address in the search field or by zooming into the map on the screen.
 - b. Click on the subject parcel. (If there are multiple subject parcels, shift-click to select additional parcels.)
 - c. Right-click on the selected parcel(s).
 - d. Select "Buffer..." from the drop down menu and change the settings to 100 feet. When done, click the "OK" button to show the 100-foot buffer. All parcels that are wholly or partially inside the buffer must be included in the mailing labels. The adjoining example shows parcels within 300 feet of the subject property.
2. The two (2) sets of mailing labels must contain the following information:
 - (a) APN of the property where the Residential Tenant resides
 - (b) "Tenant". (It is not necessary to include the Tenant's name)
 - (c) Tenant's mailing address



The Assessor Parcel Numbers (APN), names and addresses that have been compiled must be **TYPED** on self-adhesive labels in the format shown below. **Please provide label sheets in an 8½" x 11" format, equivalent to Avery labels #5160, size 1" x 2-5/8", 30 labels per sheet.**

TENANT EXAMPLE:

- | | |
|-----|--|
| (a) | 099-010-010 |
| (b) | TENANT |
| (c) | 100 MARINA ST, #9
SANTA BARBARA, CA 93101 |

3. When preparing labels for residential tenants of multi-unit buildings, a label must be submitted for **each individual** unit on the property.

For projects located adjacent to the Santa Barbara Harbor, please contact the Waterfront Department at (805) 564-5531 to obtain two (2) sets of mailing labels for residents ("live-aboards") within the harbor.

Applicants must verify this information by walking the neighborhood and identifying any residential tenants.

4. Submit an affidavit signed by the person(s) who has compiled the residential tenant labels. The affidavit certifies that the two (2) sets of mailing label(s) are complete and accurate. If the submitted label(s) are inaccurate, the item will be continued (i.e. delayed) and re-noticed with revised mailing labels.



City of Santa Barbara

COASTAL DEVELOPMENT PERMIT TENANT NOTIFICATION AFFIDAVIT

STATE OF CALIFORNIA)

COUNTY OF SANTA BARBARA) ss.

CITY OF SANTA BARBARA)

I, _____ hereby certify that the two (2) sets of
(Print Name)
attached labels contain the Assessors Parcel Numbers' and addresses of all residential tenants living on
parcels within 100 feet of the property lines of the subject parcel(s) at _____
_____. I have verified, to the best of my
(Address/APN)
ability, that the attached labels are accurate.

I CERTIFY UNDER PENALTY OF PERJURY AS DEFINED BY THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNED: _____
(Signature)

NAME: _____
(Print Name)

ADDRESS: _____

PHONE _____

DATE: _____

Exhibit H

Exhibit H



NOTICE OF DEVELOPMENT

A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS ON FILE WITH THE CITY OF SANTA BARBARA

Address: 101 W. Anapamu St. Case #: MST 2017- 00121
Applicant: Jennifer Waddill Phone: (805) 450-6089
Staff Contact: HLC Date Posted: 03/15/17
Project Summary: conversion of a single unit to a
vacation rental

For more information, please contact
(Para información sobre este permiso de desarrollo favor de llamar):

City of Santa Barbara Planning Division at (805) 564-5470
www.SantaBarbaraCA.gov → "How to I" → View → Permit Status

Exhibit J

Exhibit J



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 23, 2015

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department
Administration Division, Finance Department

SUBJECT: Council Direction On Short-Term Vacation Rental Regulations

RECOMMENDATION:

That Council provide direction to staff regarding regulation and enforcement of short-term vacation rentals.

EXECUTIVE SUMMARY:

The trend of converting residential units into full- or part-time vacation rentals has become increasingly popular, especially in vacation destination communities such as Santa Barbara. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not currently allowed. To date, alleged violations have been investigated and code enforcement action taken only in response to neighborhood complaints.

At the same time, however, the City is collecting Transient Occupancy Tax (TOT) revenue from short-term vacation rental owners. In response to the growing concerns over the impacts of vacation rentals in neighborhoods and the potential for confusion created by the City's enforcement actions and simultaneous collection of TOT, the City Council recently directed staff to address this policy issue.

This report provides background and contextual information for the public and City Council discussion and includes options for the regulation and enforcement of vacation rentals in the City of Santa Barbara.

DISCUSSION

The rapid rise of short-term vacation rentals is posing unforeseen challenges and opportunities for cities across California and the country. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not allowed under the Zoning Ordinance.

Please see the attached map that illustrates the areas of the City where vacation rentals can be permitted through a discretionary review process and then operate legally under the City's Zoning Ordinance. Areas mapped in color show the zoning districts in which short-term vacation rentals are currently allowed, and the grey parts of the map illustrate areas of the City where short-term vacation rentals are not allowed. The yellow dots represent locations where short-term vacation rental operators that have registered with the Finance Department, have a business license and pay Transient Occupancy Tax (TOT). Not all short-term vacation rentals operating in the City have applied for a business license and pay TOT. Many more short-term rentals exist in the City than are represented on this map.

There is concern that short-term rentals negatively impact neighborhood character and contribute to other nuisances, including noise and on-street parking impacts. Further, the commercialization of rental housing contributes to an increase in rents by reducing the amount of housing stock available to longer-term tenants. The City's Housing Element has a long-standing policy to protect and preserve the City's rental housing stock.

On the other hand, some short-term rental owners earn income to supplement or cover housing costs. Short-term rentals also provide travelers and tourists with an alternative to traditional lodging and dining establishments and provide a unique view into life in Santa Barbara. Guests can select from a variety of housing options and have a unique experience of staying in a home in a neighborhood. Statements have been made that short-term rentals increase tourism and boost the local economy. In Fiscal Year 2015, TOT from vacation rentals is expected to generate an estimated \$1.19 million.

The purpose of this staff report is to provide some basic information to set the stage for Council's discussion of short-term vacation rentals. Establishing a clear definition of terms is important. A shared understanding of the City's Municipal Code, policies, registration and enforcement practices is important as well.

Definition of Terms Used in This Report

For the purposes of this Council Agenda Report and Council discussion, Staff recommends a common use of the following terms and definitions. These are not terms or definitions currently found in the City's Municipal Code.

"Home Sharing Rental" – A resident(s) hosts visitors in their home for short periods of time (less than 30 days) while at least one of the primary residents lives on-site throughout the stay. Guests pay a nightly fee and enjoy non-exclusive shared use of the unit with the person(s) who lives there. Typically, the primary resident actively hosts the guests during the visit.

"Vacation Rental" – The rental of any un-hosted dwelling unit to any person for exclusive transient use of less than 30 days. Guests pay a nightly fee and enjoy the exclusive private use of the unit.

“House Swapping” – The exchange of a house by one owner with another owner in a different city for short periods of time by agreement without compensation or fees. These are informal, non-commercial arrangements that are not subject to City Municipal Code regulations. As such, they are not referenced any further in this report.

Regulatory Approaches in Other Communities

In preparation for this Council discussion, Staff researched how other jurisdictions allow and regulate, or prohibit and enforce, vacation rentals and home sharing rentals.

In many jurisdictions, short-term rentals in residential neighborhoods are not allowed and considered illegal. Short-term rentals are usually viewed as a commercial activity and considered no different than a hotel. Some jurisdictions have moved to explicitly ban vacation rentals including West Hollywood, Aliso Viejo, Sonoma County and Saratoga. Other cities have recently developed a program or ordinance to register vacation rentals and collect the TOT, including Napa, Santa Cruz, Ventura, Malibu and Goleta.

Many cities have a long history of permitting and regulating short-term vacation rentals including most cities in the Palm Springs region, many coastal cities in San Diego, Orange, and Los Angeles Counties including Carlsbad, Encinitas, Newport Beach, and Manhattan Beach. In the South and Central Coast region, the cities of Ventura, Morro Bay, and the counties of San Luis Obispo and Santa Cruz have a history of permitting and regulating short-term vacation rentals.

A recent trend is to make a distinction between vacation rentals and home sharing rentals and regulate them separately. San Francisco, Santa Monica and the City of San Luis Obispo have recently moved to prohibit vacation rentals but allow home-sharing rentals, provided that the owner meet specified requirements and then remits TOT to the City.

Communities that allow and regulate vacation rentals or home sharing rentals use some or all of the following techniques to manage their impacts in residential neighborhoods:

- Permit(s) and license(s) required and grounds for denial
- Transit Occupancy Tax payment
- Performance Standards such as:
 - Minimum length of stay, maximum number of stays per dwelling unit
 - Limits on occupancy (# guests per bedroom or house)
 - Advance notification (neighbors, landlord, city)
 - Owner occupancy requirement; non-owners prohibited from renting
 - Inspection requirements for Building and Fire Code compliance
 - Minimum separation between vacation rentals
 - Minimum insurance requirements
 - Trash/recycling collection and receptacle location requirements

- Noise Ordinance compliance
- Parking standards
- Sign Code compliance
- Preparation of Nuisance Response Plans
- Designated emergency contact within 30 miles, available 24 hours/day for complaints
- Posting of permit and conditions in unit
- Require that a City issued registration number be disclosed when listing online
- Annual limits on number of permits issued
- Surety Bond (an alternate form of deposit the City could access to collect administrative fines not paid)
- Violations, noticing, permit modification or revocation procedures
- Enforcement and Citation Provisions

Many cities include these regulations in the business, revenue and taxation sections of their Municipal Codes, rather than the Zoning Ordinance. Failure to comply with vacation rental or home sharing regulations, or failure to pay the required TOT is typically grounds for business license revocation and rental operation closure.

Municipal Code Regulations

The Municipal Code contains regulations that cover all aspects of the City organization. Titles 4, 5, and 28 of the Code are of particular interest for this report.

Title 4: Revenue, Finance and Purchasing

Title 4 contains regulations for how City taxes are established and collected. For the purposes of collecting Transient Occupancy Tax (TOT) for overnight stays of less than 30 days, it includes a definition of hotel as follows:

“Any structure, any portion of any structure, or any property or portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or recreational vehicle park (as defined in Title 28 of this Code), or other similar structure or portion thereof.” (§4.08.020.B).

Title 5: Business Taxes and Permits

This title contains a chapter on Business Taxes and includes a disclaimer that:

“No payment of tax under the provisions of this chapter shall be construed as permission to conduct or carry on a business at any place within the City where

the conducting or carrying on of such business is prohibited by the Zoning Ordinance of the City” (§5.04.020). As such, although many of the vacation rental units operating in the City have obtained the required business license and are paying TOT, they are not considered to be legally permitted without proper zoning or further discretionary review and approval.

Title 28: The Zoning Ordinance

The Zoning Ordinance contains regulations related to planning, zoning and development review in the City. For the purposes of zoning regulation and land development, it includes a definition for “hotel” and “residential unit” as follows:

Hotel: “A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to, establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses.” (§28.04.395)

Residential Unit: “A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses” (§28.04.590.A).

Due to the intensity of land use caused by the frequent turnover of guests, hotels are only allowed in the City’s Commercial and R-4 (Hotel, Motel, and Multiple Residence) Zones. The City considers short-term vacation rentals and home sharing to be a commercial use and may only permit them with a change of use permit in any zone that allows hotel use.

City Enforcement Practices

The growing industry of online marketing sites such as Airbnb, VRBO, Homeaway, Vacasa and many others are making short-term rentals more accessible to vacationers and travelers than ever before. Currently, there are hundreds of short-term lodging listings within the City on these websites. For entire units or homes, the number of listings range from an estimated 500 to 600 units (May 2015). With the addition of listings for home shares (short-term rental of private and shared rooms), the total approaches 1,000.

All vacation rentals or home shares that are not zoned and permitted as hotels, motels, or bed and breakfasts are in violation of the Municipal Code. Enforcement is currently done on a complaint basis, similar to most other alleged land use violations.

The City has seen a slight rise in complaints about vacation rentals, and the majority involves cases where the entire housing unit is being rented out as a vacation rental. The City has received very few complaints to date where a single room is rented out

and the primary occupant remains on the property. Vacation rental complaints are extremely challenging enforcement cases, as the activity is not necessarily easily observed from the street or visible to the public. Since 2004, over 60 complaints regarding vacation rentals have been received. Zoning staff has been able to verify non-compliance and successfully abate most of those cases. The remaining cases were closed due to lack of evidence to confirm a violation. Currently, there are seven vacation rental complaints under investigation by zoning enforcement staff.

Legal Issues

Regulating vacation rentals under the Zoning Ordinance falls under the City's police powers to protect the public health, safety and welfare of its residents. The Council would need to amend the Zoning Ordinance in order to legalize vacation rentals in most residential zones.

The City Attorney's approach has been to enforce both the TOT and zoning ordinance concurrently when complaints are forwarded to the City Attorney's office. In other words, the City Attorney's policy is to enforce all violations of the municipal code concurrently.

Collection of Transient Occupancy Tax

In 2010, the City had just 52 registered vacation rentals paying TOT in accordance with the City's TOT Ordinance. In that year, the City initiated an effort to identify and bring into compliance other vacation rentals that were not paying TOT. This effort was primarily in response to concerns from the lodging industry of the competitive advantage afforded vacation rental operators who were not paying the 12% TOT applicable to daily room rates. As part of its audit effort, the City offered an amnesty program whereby owners of vacation rentals that responded to letters sent by Finance staff would be exempt from three years of back taxes that would normally be due if they came forward within a specified time period, registered with the City, and began remitting TOT in accordance with the City's TOT Ordinance. A similar program was offered in 2014.

As a direct result of the two amnesty programs, a total of 93 number of vacation rental owners registered with the City. However, an additional 204 vacation rental owners came forward outside of the two amnesty program periods and are now also in compliance. In total, there currently 349 vacation rentals registered with the City paying TOT.

Options for the City of Santa Barbara

Following public input, staff will seek Council direction on what, if any, adjustments should be made to the City's current regulations or procedures regarding vacation rentals and home sharing rentals. For discussion purposes, staff is providing four

options, beginning with the most restrictive option to the least restrictive option. Other variations could be pursued.

1. Prohibit vacation rentals and home sharing rentals in the City (including R-4 and commercial zones) and forego collection of TOT. Vacation rentals and home sharing rentals are not defined in the Municipal Code and are currently being viewed as a commercial hotel use and regulated as such. Presently, if a property owner sought the proper land use approvals, one could legalize a vacation rental or home share rental in a commercial or zoning district where hotels are conditionally allowed, although few have chosen to do that to-date. If Council decides to prohibit short-term rentals throughout the city, regardless of zoning designation, staff would develop definitions and explicitly prohibit them within City limits.

In this case, Community Development and Finance Department staff would work together to notify property owners currently operating short-term rentals and provide a deadline to allow ample time for most existing reservations to be honored, but no new listings or bookings would be allowed.

2. Allow vacation rentals and home sharing rentals only in hotel/motel/multiple residential unit (R-4) and commercial zoning districts, and continue collecting TOT. Under this scenario, vacation rentals and home sharing rentals could continue to be treated as commercial operations, subject to the Nonresidential Growth Management Ordinance and related provisions of the Municipal Code, or an alternate permitting process could be developed. All short-term rentals would continue to be prohibited in residential zones.

Similar to Option 1, Staff would attempt to notify property owners that currently operate short-term rentals and provide a deadline by which existing reservations could be honored, but no new listings would be allowed.

Staff would then proactively enforce existing zoning regulations on unpermitted short-term rentals. In the R-4 and commercial zones, staff would explore the creation of new regulations and processes to encourage operators to legalize their operations.

3. Allow home-sharing rentals, but not vacation rentals, wherever residential uses are allowed, require registration and collect TOT. Under this scenario, vacation rentals would be prohibited throughout the City and home-sharing rentals would be allowed in all zones where residential uses are currently allowed. Hosts of home sharing rentals would need to register the unit, meet performance standards and pay TOT. Similar to Option 1, staff would notify property owners currently operating vacation rentals and provide a deadline by which most existing reservations could be honored, but no new listings or bookings would be allowed.

4. Allow vacation rentals and home sharing rentals where residential uses are allowed and continue collecting TOT. This scenario would allow vacation rentals and

home sharing rentals throughout the City, subject to performance standards to minimize neighborhood impacts. In this scenario, staff resources would likely be redirected from complaint-based enforcement to a more proactive role in registering and monitoring short-term rentals for performance standard compliance.

BUDGET/FINANCIAL INFORMATION:

Transit Occupancy Tax

In Fiscal Year 2015, the City's General Fund expects to receive approximately \$1.19 million in TOT revenues from the 349 registered vacation rentals. This revenue source is forecast to grow to \$1.27 million in Fiscal Year 2016. These amounts exclude any back taxes paid in Fiscal Year 2015. This contrasts with the total TOT expected in Fiscal Year 2015 of \$19.5 million from all properties, including hotels, motels, and other lodging establishments. It is important to note that the City's Creek Restoration and Water Quality Improvement Fund receives 2% of the total 12% TOT collected pursuant to the Measure B approved by City voters in November of 2000. In Fiscal Year 2015, the amount of TOT expected from vacation rentals pursuant to Measure B is approximately \$204,000 and is in addition to the \$1.19 million expected in the General Fund.

Depending on Council's direction regarding the regulation of vacation rentals, the financial impact could range from no impact to a projected loss of nearly \$1.3 million in projected and ongoing TOT revenues. If Council decides to allow short-term rentals, it is difficult to predict the number of property owners, currently not registered with the City, that would elect to properly permit and operate their rental and pay the required TOT.

Staffing

Responding to requests to investigate short-term vacation rental complaints is time consuming, because zoning violations of this nature are often difficult to prove. Depending on direction from Council, additional staff resources may be necessary, either to proactively enforce a prohibition against short-term rentals or to administer a rental registration program and conduct a permit compliance program.

NEXT STEPS

After receiving initial direction from Council, staff anticipates additional research, public outreach and work sessions with the Planning Commission over the next three to four months. If amendments to the Municipal Code are required, the Planning Commission would make a recommendation to the Council. Applicable implementation measures, if any, will likely be subject to review by the Ordinance and/or Finance Committees prior to Council consideration

ATTACHMENT: City of Santa Barbara Vacation Rental Business License
Registrations Map

PREPARED BY: Elizabeth Limón, Project Planner

SUBMITTED BY: George Buell, Community Development Director
Robert Samario, Finance Director/Acting Assistant City
Administrator

APPROVED BY: City Administrator's Office

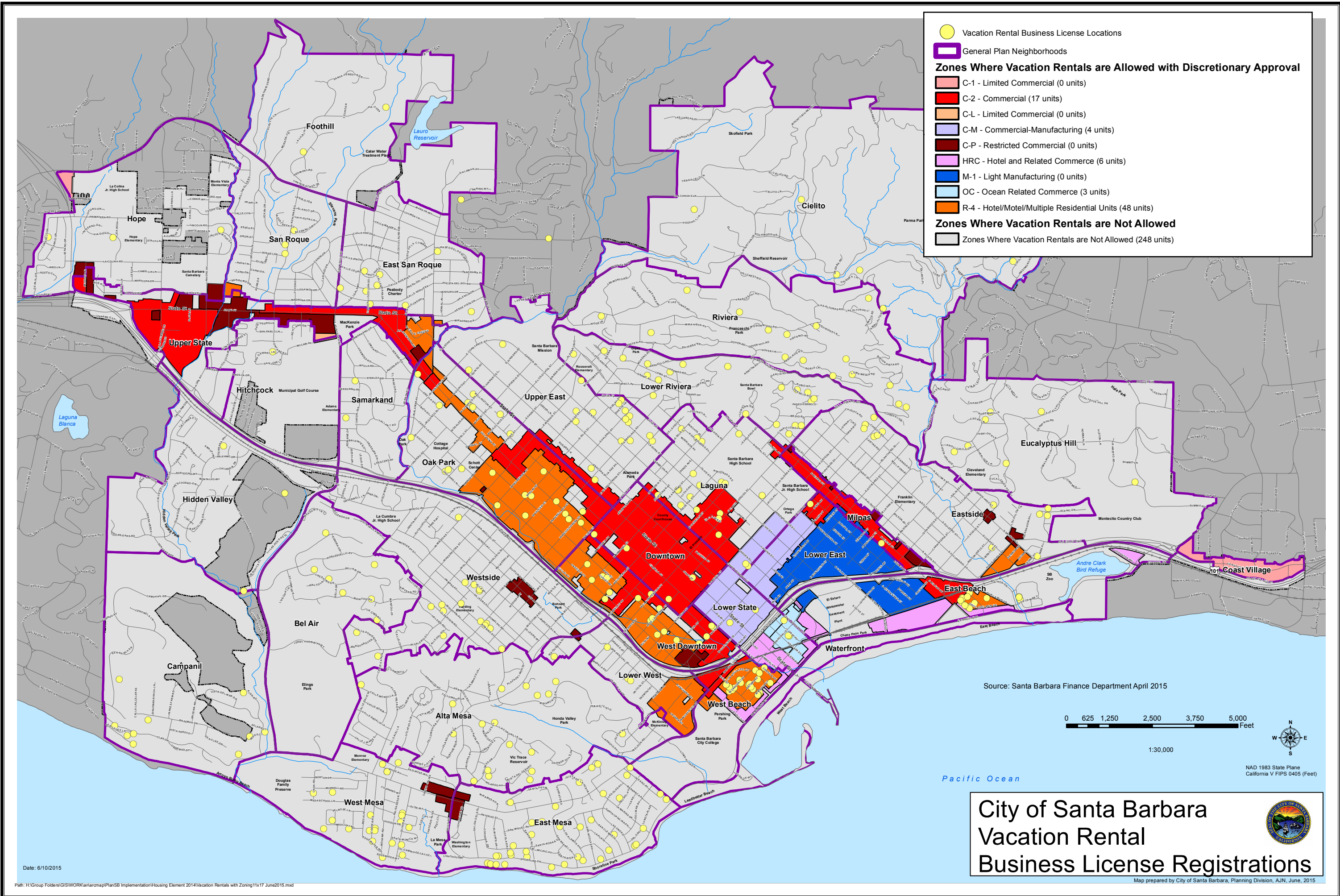


Exhibit I

Exhibit I



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 11, 2015

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Vacation Rental Enforcement And Home Sharing Rental Ordinance

RECOMMENDATION: That Council:

- A. Allocate \$80,000 from the General Fund appropriated reserves to the City Attorney's Office Fiscal Year 2016 budget to cover the cost of legal services;
- B. Allocate \$90,000 from the General Fund appropriated reserves to the Community Development Department's Fiscal Year 2016 budget and incur as an ongoing cost to augment existing zoning enforcement staff and cover the cost of increased zoning enforcement related to Vacation Rentals;
- C. Allocate \$10,000 from the General Fund appropriated reserves to the Finance Department's Fiscal Year 2016 budget and incur as an ongoing cost for staffing overtime costs related to increased zoning enforcement of Vacation Rentals; and
- D. Initiate a Zoning Ordinance amendment to allow Home Sharing Rentals.

EXECUTIVE SUMMARY:

The City Council and staff are aware that short-term Vacation Rentals exist throughout the City and that most are operating in residential areas where they are not currently allowed. To date, alleged violations have been investigated and code enforcement action taken only in response to neighborhood complaints.

On June 23, 2015, the City Council directed staff to enforce the City's existing Zoning Ordinance and develop an enhanced enforcement plan. The City Council also directed staff to return with a work plan to amend the Zoning Ordinance to allow Home Sharing Rentals. This Council Agenda Report provides information on Vacation Rental enforcement priorities and budget implications. It also provides information on the process and schedule for developing a Home Sharing Rental ordinance.

DISCUSSION

Background

The growing industry of online marketing sites is making short-term rentals more accessible to tourists than ever before. Currently, there are over 90 online web sites advertising short-term stays in the City. A quick glance at two of the larger sites (Airbnb and VRBO) revealed over 1,000 individual listings in the City. Based on the maps provided online, for the most part, these listings are in the City limits. There are currently 361 short-term rentals registered with the City and paying Transient Occupancy Tax (TOT).

Definitions

For the purposes of this Council Agenda Report and Council discussion, staff recommends a common use of the following definitions regarding short-term Vacation Rentals. These are not terms or definitions currently found in the City's Municipal Code or Zoning Ordinance.

"Home Sharing Rental" – A resident(s) hosts visitors in their home for short periods of time (less than 30 days), while at least one of the primary residents lives on-site throughout the stay. Guests pay a nightly fee and enjoy non-exclusive shared use of the unit with the person(s) who lives there. Typically, the primary resident actively hosts the guests during the visit.

"Vacation Rental" – The rental of any un-hosted dwelling unit to any person for exclusive transient use of less than 30 days. Guests pay a nightly fee and enjoy the exclusive private use of the unit.

Previous Council Meeting on Vacation Rentals

On June 23, 2015, the City Council held a public hearing and discussed the growth of short-term Vacation Rentals in the City. The City received 47 comment letters and heard over three hours of public testimony from 69 speakers representing 90 speaker cards. It is estimated that a total of 200 people attended the meeting.

At the conclusion of the public hearing, the Council was unanimous in their support for enforcement of the City's existing Zoning Ordinance, which prohibits hotel uses in most residential zoning districts. Noting concerns regarding neighborhood compatibility and the loss of urgently needed housing to a commercial enterprise, Council directed staff to:

- Proactively enforce existing Zoning Ordinance regulations that:
 - Prohibit Vacation Rentals in single-family, R-2 and R-3 Zones ; and

- Permit Vacation Rentals where hotel uses are allowed, subject to the applicable discretionary review and approval process
- Develop a work program to define, regulate and permit Home Sharing Rentals anywhere residential uses are allowed.

Need for Clarity in Existing Zoning Ordinance

The City's Zoning Ordinance contains distinct definitions for residential units and hotels, which have existed for decades. The length of stay, less than 30 days, determines the transient nature of room rentals. The sharing economy and use of the Internet to book commercial transactions (transportation, rooms or homes) did not exist when the City's zoning definitions and regulations were adopted. Applying existing regulations to this new and rapidly expanding phenomenon has proven challenging.

Initiating a Zoning Ordinance amendment to add relevant definitions and clarify regulations will be beneficial to both the public and staff. This will also provide staff and the Planning Commission authorization to explore ways to regulate and permit Home Sharing Rentals anywhere residential land uses are allowed.

Existing City Zoning Regulations

On June 23rd, Council also asked staff to develop a work program that would allow some form of home sharing of a person's primary residence. This direction prompted staff to request a City Attorney opinion on this type of use. The conclusion is that renting out rooms for less than 30 days is currently a zoning violation. The City Attorney's opinion is based upon the clear definition of hotel in the Zoning Ordinance, which can include any "portion of a building" as a hotel:

28.04.395 Hotel.

"A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to, establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses."

Accordingly, a Zoning Ordinance amendment will be required to implement a home sharing program.

Hotels are currently allowed in the City's R-4 (Hotel-Motel-Multiple Residence) and commercial zones, subject to discretionary review. Discretionary review is review using reason and judgment based upon specific criteria defined in the Santa Barbara Municipal Code (SBMC) established to protect the health, safety and welfare of the community to assess impacts of a proposed use or development project. This review

includes a public notice, a comment period, and the ability to appeal the decision, In Santa Barbara, these types of decisions are made by the Community Development Director, Staff Hearing Officer, Design Review Boards, Planning Commission, City Council, or other decision making body.

The discretionary review process to convert existing residential units to a hotel use involves compliance with the City's Growth Management Program, the Condominium / Hotel Conversion Ordinance, Tenant Displacement Assistance Ordinance and Transient Occupancy Tax Ordinance, to name just a few of the applicable laws. Due to the complexity of the process, especially for conversion of more than one unit on a lot, staff has developed a brochure describing the steps involved to legally convert one or more residential units into a Vacation Rental.

General Plan

The General Plan places a high priority on housing development. The Average Unit-Size Density (AUD) Program (2013) provides significant incentives for the development of rental housing. There is considerable overlap in the areas where AUD incentives are allowed and where Vacation Rentals are currently operating illegally. Based on the Vacation Rentals that have been paying TOT (without planning permits and approval), the highest concentrations are in the East Beach, West Beach, and West Downtown neighborhoods. Whether the TOT is being paid for transient stays in a full-time Vacation Rental or in Home Sharing Rental is unknown. Therefore the effect on the City's housing supply cannot be quantified at this point in time.

Enforcement Approach and Priorities

Council directed staff to begin proactive enforcement of existing zoning regulations on unlawful Vacation Rentals.

Gathering the necessary evidence to support proactive enforcement will be time-consuming and relatively costly because of the sheer number of unlawful Vacation Rentals in the City. However, through web-based research, staff has compiled a list of approximately 90 short-term Vacation Rental websites, agents, property management companies and online rental services that appear to be doing business in Santa Barbara. These enforcement leads will be used to support issuance of "legislative subpoenas" that will result in the provision of information necessary for outreach and enforcement. The data provided by a subpoena will be essential to the enforcement process.

Enforcement Approach

Vacation Rental enforcement will have two goals: Achieving permanent compliance with the Zoning Ordinance and recovery of unpaid Business License and Transient

Occupancy Tax (TOT). These goals will be met by firm and clear enforcement practices. For example, in six Vacation Rental cases handled by the City Attorney's Office earlier this year, the business owners were provided compliance notices that included a copy of the enforcement complaint that would be filed in Superior Court should compliance not be accomplished voluntarily within a relatively short period of time (14 to 21 days). In order to be effective as an incentive and deterrent, Vacation Rental business owners must be presented with the threat of enforcement costs that are higher than the cost of compliance. This may require the use of more sophisticated business litigation strategies than typically used in code enforcement.

With contract lawyer support, the City Attorney estimates that about 300 cases per year can be competently and aggressively managed. The approach would be to work 30-40 cases in each 6 week enforcement wave.

Council discussed offering a temporary amnesty to some existing Vacation Rental owners. Staff believes this to be both unnecessary and unwise. As a practical matter, it will take at least two years of concerted effort to make a significant impact in the Vacation Rental market. And, as discussed below with respect to enforcement priorities, existing Vacation Rentals that are paying TOT are in the lowest enforcement priority category. This effectively provides amnesty to those owners who have made a reasonable effort to address the City's prior policy concerns.

Enforcement Priorities

Because of the criminal and public nuisance aspects of the City's code enforcement options, the City Attorney has an ethical obligation as an impartial prosecutor whose duty it is to seek justice on behalf of the People. Thus, Council cannot give case-by-case direction on code enforcement matters. Nor are closed sessions permitted. Council's policy control and priority setting power comes through the budget process, as the Council's control over spending public funds does not implicate the handling of any specific case. We seek Council's concurrence in our proposed enforcement priorities as part of the funding request, noting that because of the considerations listed above we may need to adopt different strategies from time-to-time and case-by-case.

The focus of the June 23, 2015 discussion was full-time short-term Vacation Rentals. For a fair and effective enforcement strategy, staff is recommending that all short-term Vacation Rentals and Home Sharing Rentals be subject to enforcement, with the following priorities:

1. Existing and new complaints about Vacation Rentals and Home Sharing Rentals, citywide.
2. Vacation Rentals and Home Sharing Rentals operating without a City business license and not paying TOT, in single-family, R-2 and R-3 Zones.

3. Vacation Rentals and Home Sharing Rentals operating without required land use approvals, a City business license and not paying TOT, in areas where hotels can be allowed (R-4 and Commercial Zones).
4. Vacation Rentals and Home Sharing Rentals operating with a City business license and paying TOT, in single-family, R-2 and R-3 Zones.
5. Vacation Rentals and Home Sharing Rentals operating without required land use approvals, but with a City business license and paying TOT, in areas where hotels can be allowed (R-4 and Commercial Zones).

Collection of TOT

For Vacation Rentals and Home Sharing Rentals that are currently not paying TOT or a business license tax, the enforcement action will include requiring these operators to pay back taxes, including interest and penalties. This approach recognizes that, while out of compliance with zoning requirements, these operators are still subject to the TOT and Business License Ordinances. Certainly, we encourage these rental operators to cease operations in advance of being contacted by the City and to resolve their tax liabilities to avoid further penalties and interest being imposed.

All Vacation Rentals and Home Sharing Rentals that are currently licensed and paying TOT will be required to continue to pay those taxes until they are notified by the City Attorney's Office to cease operations. The timing of the notice will be determined by the enforcement priorities proposed and previously discussed in this report.

However, applications for new Vacation Rentals or Home Sharing Rentals will not be accepted by the City, except for any new, Vacation Rentals in the R-4 and commercial zones that have received all appropriate planning and land use approvals.

Proposed Home Sharing Rental Ordinance

Staff proposes to draft a Zoning Ordinance amendment that would define and regulate Home Sharing Rentals where residential uses are allowed. The ordinance would include regulations requiring a City Business License, TOT payments, and performance standards.

Ordinance Amendment Process and Schedule

Staff is proposing the following expedited approach to develop a Home Sharing Rental ordinance for Council consideration, with a goal of having the ordinance adopted prior to reaching enforcement tiers 4 and 5 (operators not currently paying TOT). This would ideally avoid the awkward situation where the City is shutting down a Home Sharing Rental arrangement that would shortly thereafter become allowable under the proposed change in the ordinance. To achieve an expedited change in the ordinance, the

proposed work program does not include a separate community outreach process other than the required public hearings before the Planning Commission, Council Ordinance Committee, and City Council.

1. Planning Commission workshop on the general scope of a Home Sharing Rental ordinance – Fall 2015
2. Draft Zoning Ordinance amendment prepared by staff – Winter 2015/16
3. CEQA Review & Planning Commission hearing on Draft Ordinance amendment, with recommendation to Council – Spring 2016
4. Planning Commission Recommendation to Council (if necessary) – Late Spring 2016
5. City Council Ordinance Committee review and recommendation to Council - Summer 2016
6. City Council consideration of Ordinance amendment - Fall 2016

Noticing

For the June 23, 2015 Council meeting, staff sent mailed notices as a courtesy to all Vacation Rental operators currently paying TOT to the Finance Department. Additional interested parties were also sent a notice of the meeting, primarily by email. Notices were also sent to all City neighborhood groups, business and community groups, and the email distribution list for General Plan implementation projects. A City press release was also issued. A similar broad noticing approach was used for this meeting.

BUDGET/FINANCIAL INFORMATION:

In Fiscal Year 2015, the City's General Fund received approximately \$1.2 million in TOT revenues from the 349 registered Vacation Rentals. This General Fund revenue stream will diminish over time with increased zoning enforcement. Further, staff is requesting that Council allocate \$170,000 from the General Fund appropriated reserves to cover the cost of increased enforcement by the City Attorney's Office and Community Development Department in Fiscal Year 2016.

Staff recommends that Council allocate \$80,000 to the City Attorney's Office Fiscal Year 2016 budget to cover the cost of increased legal services. This would include hiring contract staff to assist in the enforcement of the existing Zoning Ordinance with respect to non-compliant Vacation Rentals and Home Sharing Rental operations. Staff expects this level of enforcement will be needed through the end of Fiscal Year 2017. These figures are our best estimates, but they have been prepared without detailed programmatic

planning. Accordingly, we would fine-tune the figures in conjunction with the next fiscal year's budget.

Currently, zoning enforcement is conducted through the Planning Division with two part-time employees and about 50% of one full-time employee who also works on other assignments (for a total of 1.5 FTE). Based on the experience of other communities currently engaged in enforcing vacation rental regulations, staff anticipates that a significant short-term effort will be required, and there will likely be need for additional staff over the long-term. In order to meet these staffing needs, staff recommends that Council allocate \$90,000 to the Community Development Department's Fiscal Year 2016 budget. These funds will be used to create one new full-time position and add two part-time staff (for a total of 3.0 FTE) for zoning enforcement purposes. Following the initial two-year effort, it is anticipated that staffing would be reduced to a total of 2.0 FTE, and the ongoing annual cost increase of creating and retaining .5 FTE is estimated at \$70,000. The creation of this full-time position is recommended to better ensure recruitment and retention of quality staff and to provide on-going continuity and leadership within the zoning enforcement team. Similar to the City Attorney's Office, if additional staff support is required, this would be addressed in the next fiscal year's budget.

As a component of enforcing Vacation Rental regulations, the Treasury Division of the Finance Department will be required to calculate unpaid Business License and Transient Occupancy Tax for each enforcement case. The Finance Department has sufficient staffing to perform these required functions; however, staff anticipates that overtime costs will be incurred to meet the demands of the proposed enforcement approach of 300 cases per year. Staff recommends that Council allocate \$10,000 to the Finance Department's Fiscal Year 2016 budget to cover these overtime costs. Staff anticipates the additional staffing costs to be ongoing through Fiscal Year 2018.

PREPARED BY: Elizabeth Limón, Project Planner

SUBMITTED BY: George Buell, Community Development Department Director
Ariel Pierre Calonne, City Attorney
Robert Samario, Assistant City Administrator/Finance Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 11, 2015

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Issuance Of Legislative Subpoena To Support Vacation Rental Enforcement

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Issuing Subpoenas for Certain Records Related to Short-Term Vacation Rentals in the City.

DISCUSSION:

In order to assist in the enforcement against unlawful vacation rentals in R-1, R-2, and R-3 residential zones, the City Attorney's Office is requesting that Council adopt a resolution authorizing legislative subpoenas to all companies that operate websites advertising vacation rental properties within the City of Santa Barbara. A legislative subpoena will ensure that the City Attorney's Office has all relevant records to conduct a thorough review to determine whether a rental property owner is violating the Municipal Code.

The majority of short term rentals are advertised on the internet. There are multiple vacation rental websites that advertise properties in Santa Barbara for short term rental. Information on these websites often includes photos of the property, reviews, rental rates, and location of the property. Community Development staff, through web-based research, has uncovered and compiled a list of ninety-one (91) websites containing short term vacation rental listings of properties in Santa Barbara.

The City Attorney's Office requests the issuance of legislative subpoenas on all websites that have active listings for vacation rentals in the City of Santa Barbara in order to investigate, and to obtain compliance with the Municipal Code. Without these legislative subpoenas the City Attorney's Office will be hampered in its effort to investigate and obtain vacation rental compliance.

The City Council has the authority to issue a legislative subpoena under Santa Barbara City Charter Section 509. Legislative subpoenas are issued in the name of the City and

attested by the City Clerk. In addition, a legislative subpoena issued under the powers delineated under the Charter is required to be served and complied with in the same manner as subpoenas in civil actions.

The City Council also has the authority to issue legislative subpoenas requiring the attendance of witnesses or production of documents pursuant to California Government Code section 37104. Under Government Code section 37105, legislative subpoenas are signed by the Mayor, attested by the City Clerk, and served in the same manner as civil subpoenas. If the subpoenaed party does not comply with the subpoena, Government Code section 37106 provides a remedy whereby the Mayor reports the noncompliance to the Santa Barbara Superior Court. A judge can then issue an Order to Show Cause (OSC) to the subpoenaed party to appear in court and explain the reasons for noncompliance. We recommend using both sources of subpoena authority.

The punishment for disobedience of a legislative subpoena is the same as if the contempt had been committed in a civil trial in superior court, namely when a subpoenaed party has disobeyed a duly served subpoena, that person has committed contempt. (California Code of Civil Procedure Section 1209, subd. (a) (10)). The court may then punish the subpoenaed party for contempt by imposing a fine not exceeding \$1,000 or imprisonment not exceeding five days, or both. (Code Civ.Proc., § 1218).

The proposed Resolution authorizes issuance and service of legislative subpoenas to companies that operate current websites that have active listings for vacation rentals in Santa Barbara. The legislative subpoena directs the subpoenaed party to either appear at a specified city council meeting with the requested records or make arrangements for the production of records. If the subpoenaed party fails to comply, this Resolution further authorizes the Mayor to submit a report to the Santa Barbara Superior Court regarding noncompliance.

ATTACHMENT(S): Sample Draft of Legislative Subpoena

PREPARED BY: Ariel Pierre Calonne, City Attorney
John Steve Doimas, Deputy City Attorney

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office

IN THE MATTER OF FACTUAL
INQUIRY RELATED TO INVESTIGATION
OF CHAPTER 4.08, 5.04 OF TITLE 28 OF
THE CITY OF SANTA BARBARA
MUNICIPAL CODE

LEGISLATIVE SUBPOENA
(Government Code §§ 37104 *et seq.*)
(SB City Charter §509)

Date:

Time:

Place: City Hall
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

To: Custodian of Records for _____, Inc.
c/o XXX (agent for service of process for XXX, Inc.)
address
city, state, zip

1. On August 11, 2015, the City Council adopted Resolution No. (incorporated by reference into this subpoena).
2. Accordingly, you are ordered to appear in person and produce true and correct copies of the document specified in Attachment 1 at the regular City Council Meeting for the City of Santa Barbara ("City") at 735 Anacapa Street, Santa Barbara, California, 93101, on _____, 2015, at _____ p.m. (or as soon thereafter as the matter may be heard)
3. **You are not required to appear in person and produce the requested documents IF, by 4:00 p.m. on XXX, 2015, you deliver the document described in Attachment 2 to:**

XXX
Title
City of Santa Barbara
735 Anacapa Street
Santa Barbara, California 93101

4. All documents produced to the City shall be accompanied by a declaration or affidavit warranting to their accuracy and completeness sufficient to meet the requirements of Code of Civil Procedure section 2020.430. The City will pay all reasonable documented costs associated with photocopying the requested documents. If costs exceed \$50.00 please contact XXX before copying.

The City requires these records to assist it in evaluating, investigating, and enforcing the municipal code compliance against unlawful vacation rentals in R-1, R-2, and R-3 residential zones pursuant to Santa Barbara Municipal Code Chapters 4.08, 5.04,

28.15, 28.18, and 28.21. The documents requested are material and good cause exists for their production as described in Attachment 3. This subpoena is issued pursuant to Santa Barbara City Charter section 509 and California Government Code section 37104 and authorized by the City of Santa Barbara Council.

Disobedience of this subpoena will be referred to the Superior Court for enforcement and is punishable as contempt pursuant to Government Code section 37109 and the Santa Barbara City Charter. Should you have any questions regarding this subpoena please contact:

Ariel Pierre Calonne (State Bar No. 110268)
City Attorney
John S. Doimas (State Bar No. 282346)
Deputy City Attorney
City Attorney's Office
740 State Street, Suite 201
Santa Barbara, California 93101
(805) 564-5326

Dated: XXX

City Council, City of Santa Barbara

Attest:

By: _____
XXX
Mayor, City of Santa Barbara

By: _____
XXX
City Clerk, City of Santa Barbara

APPROVED AS TO FORM:

By: _____
XXX

ATTACHMENT 1

The following documents must be produced to the City:

Request #1: Documents sufficient to identify all persons that through any website owned or controlled by Company Name who advertised, have rented, or offered to rent any HOTEL for a period of 30 consecutive days or less for dwelling, use, lodging or sleeping purposes in the City of Santa Barbara, California during the period from _____, through the present.

“HOTEL” is defined as a building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses.

- (1) Request #2: Documents sufficient to provide the following information for each person identified in response to Request #1:
- a. The name, physical address, email address, and any other contact information for each person.
 - b. The url for each website which the person used to list a HOTEL.
 - c. The address of the person’s HOTEL that has been rented, or offered to rent, for dwelling, use, lodging or sleeping purposes in the City of Santa Barbara through any website or property owned or controlled by _____ during the period from _____, through the present (“PROPERTY” means the HOTEL(S) rented as described in this paragraph by the person).
 - d. The dates and duration of stay for each time the PROPERTY was rented since _____, to present.

- e. The rate charged and funds collected for each time the PROPERTY was rented since _____, to present.
 - f. The method of payment, including name of institution and type of account, for each time the PROPERTY was rented since _____, to present.
 - g. The name of any person who rented any PROPERTY from a person identified in Request #!, since _____, to present, as well as the renter's physical address, email address and other contact information.
 - h. The total gross revenue generated by the person renting the PROPERTY as a result of that renting since _____, to present.
- (2) If documents do not exist sufficient to provide all of the information requested, the city requests that you produce electronically stored information that is sufficient to provide all of the information requested. This information must be provided in pdf, Microsoft Word or Microsoft Excel Format. If production in this manner is not feasible then it must be produced in a different format agreed to by the City.

ATTACHMENT 2

- (3) **Alternatively, and in lieu of the documents requested in Attachment 1,** you may provide a list identifying all persons that through any website owned or controlled by **Company Name** who advertised the availability of a HOTEL for a period of 30 consecutive days or less for dwelling, use, lodging or sleeping purposes in the City of Santa Barbara, California during the period from _____, through the present. This list must also include the following regarding these rentals:
- a. The name, physical address, email address, and any other contact information for each person.
 - b. The url for each website which ther person used to list a HOTEL.
 - c. The address of the HOTEL.
 - d. The dates and duration of stay for each time the HTOEL was rented.

- e. The rate charged and funds collected for each time the HTOEL was rented.
- f. The method of payment, including name of institution and type of account, for each time the HOTEL was rented.
- g. The name of any person who rented any HOTEL, as well as their physical address, email address and any other contact information.
- h. The total gross revenue generated by the person renting the HOTEL.

ATTACHMENT 3
[City Council Agenda Report]

Draft

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA ISSUING SUBPOENAS FOR CERTAIN
RECORDS RELATED TO SHORT-TERM VACATION
RENTALS IN THE CITY.

WHEREAS, City Charter Section 509 and Government Code Section 37104 both authorizes the City Council to issue a legislative subpoena requiring attendance of witnesses or production of documents; and

WHEREAS, this legislative subpoena serves as a lawful legislative purpose as it will allow the Santa Barbara City Attorney's Office and City Staff to investigate and commence actions to abate unlawful vacation rentals in R-1, R-2, and R-3 residential zones pursuant to Santa Barbara Municipal Code; and

WHEREAS, the City Council finds enforcement of the City's Municipal Code is a proper legislative concern.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
SANTA BARBARA AS FOLLOWS:**

1. The above-listed recitals are true and correct and adopted as findings of City Council of the City of Santa Barbara; and
2. That legislative subpoenas similar to the attached hereto as Exhibit A, are hereby issued, and the Mayor is authorized to sign each subpoena commanding the subpoenaed party to appear before the City Council at a specified City Council meeting to produce the requested records, or alternatively to make arrangements with the City for production of said records prior to that time; and
3. City staff is directed to have the legislative subpoenas served in accordance with all legal requirements for service of subpoenas; and
4. If a subpoenaed party fails to comply with the legislative subpoena authorized by this resolution, the Mayor is authorized to submit a report of noncompliance to the Santa Barbara Superior Court.

Exhibit K

Exhibit K

Council Hearing on Vacation Rentals Scheduled (tent.) for Tuesday, June 23, 2015 at 6 PM CAR Outline – 5/18/15

1. Background

- a. Definition of Short Term Rentals (home sharing, vacation rental)
- b. Existing regulation of vacation rentals
- c. Zones that allow vacation rentals (w/associated map)
- d. Current enforcement practices
- e. Properties paying TOT (w/associated map)
- f. What we are hearing from the community

2. Summarize approaches by other jurisdictions, including

- a. Allowed / Prohibited zones
- b. Current enforcement / regulation practices
- c. Permit requirements/performance standards
- d. Business Licenses / TOT collection
- e. Enforcement

3. Options for City of SB & Schedule

- a. Request for Council direction
- b. Budget implications

4. Public Information/Notification

- a. Interested parties/stakeholders
- b. Press release – 1st week in June
- c. City website

5. Other

- a. Consult with City Attorney regarding Coastal Commission review process
- b. Determine approach for CEQA review

Exhibit L

Exhibit L



MEDIA RELEASE

Small Decline in Transient Occupancy Tax in January

SANTA BARBARA, CA – February 23, 2017

The City of Santa Barbara collected approximately \$1.03 million in Transient Occupancy Tax (TOT) for the month of January 2017, which represents a 0.6% decline compared to January 2016. TOT collected from hotels increased 4% and short-term rentals decreased 74%. Since short-term rentals constitute a relatively small portion of overall TOT, the large decline in this sector does not have a corresponding impact on overall TOT growth. Due to the enforcement of the City's existing Zoning Ordinance, which prohibits short-term rentals in most residential zoning districts, a large decline in short-term rental TOT is expected to continue for the remainder of the fiscal year.

The City has collected over \$11.6 million in TOT revenue in the first seven months of the fiscal year, which runs from July 1 through June 30. The adopted TOT budget for fiscal year 2017 is \$19,766,200.

The Transient Occupancy Tax table can be viewed [here](#).

Previous Revenue News releases can be viewed here:

http://www.santabarbaraca.gov/gov/depts/finance/budget/revenue_news.asp

Contact: Julie Nemes, Treasury Manager

Phone: (805) 564-5340

Email: JNemes@SantaBarbaraCA.gov

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City of Santa Barbara
TRANSIENT OCCUPANCY TAXES

Month	FY 2014	Change Prior Yr	FY 2015	Change Prior Yr	FY 2016	Change Prior Yr	FY 2017	Change Prior Yr
July	\$ 2,050,097	12.6%	\$ 2,165,781	5.6%	\$ 2,291,916	5.8%	\$ 2,371,563	3.5%
Aug	2,069,170	12.9%	2,325,106	12.4%	2,288,678	-1.6%	2,275,393	-0.6%
Sept	1,510,334	9.5%	1,626,983	7.7%	1,706,348	4.9%	1,850,883	8.5%
Oct	1,283,718	6.3%	1,617,359	26.0%	1,612,613	-0.3%	1,661,481	3.0%
Nov	1,036,437	15.8%	1,212,104	16.9%	1,167,633	-3.7%	1,276,377	9.3%
Dec	930,596	17.7%	1,051,107	12.9%	1,053,334	0.2%	1,153,040	9.5%
Jan	1,004,235	25.3%	1,167,590	16.3%	1,037,641	-11.1%	1,031,599	-0.6%
Feb	1,051,136	27.0%	1,121,952	6.7%	1,210,718	7.9%		
Mar	1,236,237	16.8%	1,363,521	10.3%	1,421,552	4.3%		
April	1,459,691	23.4%	1,506,982	3.2%	1,432,059	-5.0%		
May	1,515,832	14.2%	1,603,265	5.8%	1,545,757	-3.6%		
June	1,674,511	7.9%	1,795,755	7.2%	1,793,897	-0.1%		
FY Total	16,821,995	14.6%	\$ 18,557,506	10.3%	\$ 18,562,146	0.0%	11,620,336	4.1%
Adopted Budget							\$ 19,766,200	6.5%

PROOF OF SERVICE

I am a resident of the State of California. My business address is ROGERS, SHEFFIELD & CAMPBELL, LLP, 427 East Carrillo Street, Santa Barbara, California 93101. I am over the age of eighteen (18) years and not a party to the aforementioned cause.

On the date set forth below I served on the interested parties in this matter the following documents:

**PETITIONER THEODORE P. KRACKE'S REPLY TO OPPOSITION TO
MOTION FOR PRELIMINARY INJUNCTION**


☒ by personally delivering copies to the following person(s) at the following address(es)

**Ariel P. Calonne
Tom R. Shapiro
John S. Doimas
Robin Lewis
740 State Street, Suite 201
Santa Barbara, CA 93102**

I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing. Under that practice, correspondence or documents served as above indicated would be deposited with the United States Postal Service the same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: March 30, 2017


Julia M. Thompson